

THE ARRANGEMENTS  
TRIALS  
COVENTRY  
June the 8th. 1696.

I Do appoint *Samuel Heyrick*, and *Isaac Cleave*,  
to Print the Tryals of *Charles Cranburne*, and  
*Robert Lowick*, and that no other person presume  
to Print the same.

J. Holt.

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THE Tryals of *Charnock*, *King*, and *Keys*, as  
likewise of *Sir John Friend*, and *Sir William*  
*Parkyns*, and *Ambrose Rookwood*, are all Printed and  
Sold by *Samuel Heyrick*, and *Isaac Cleave*.

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6

THE ARRAIGNMENTS,  
**TRYALS**  
AND  
CONDEMNATIONS  
OF

**Charles Cranburne,**  
and  
**Robert Lowick,**

FOR THE  
Horrid and Execrable Conspiracy to  
Assassinate His Sacred Majesty King *WILLIAM*,  
in order to a *French* Invasion of this Kingdom.

Who upon full Evidence were found Guilty of

**HIGH-TREASON,**

BEFORE

His Majesty's Justices of *Oyer and Terminer* at *Westminster*,  
and Received Sentence the 22<sup>d</sup>. of *April*, 1696. And were Executed at  
*Tyburn* the 29<sup>th</sup>. of the said Month.

In which Tryals are contained

All the Learned Arguments of the King's Council, and likewise the Council  
for the Prisoners, upon the New Act of Parliament for Regulating Tryals  
in Cases of Treason.

---

L O N D O N,

Printed for *Samuel Heyrick* at *Grays-Inn-Gate* in *Holbourn*, and *Isaac Cleave*  
at the *Star*, next to *Sergeants-Inn* in *Chancery-lane*, M. DC. XCVI.

# THE ARRAIGNMENTS TRIALS AND CONDEMNATIONS

OF  
Charles Crandall  
and  
Robert Fawcett  
FOR THE  
Glorious and Execrable Conspiracy to  
Assassinate His Sacred Majesty King WILLIAM  
in order to a French Invasion of this Kingdom.

Who upon full Evidence were found Guilty of  
HIGH-TREASON

BEFORE  
His Majesty's Justices of Oyer and Terminer at Westminster  
and High Court of the King at the Old Bailey, in the Year 1796. And were executed at  
Tyburn the 20th of the said Month.

In which Trials are contained  
All the learned Arguments of the King's Counsel, and likewise the Counsel  
for the Prisoners, upon the Act of Parliament for Regulating Trials  
in Cases of Treason.

LONDON  
Printed for George Wynd at George's Tavern in Pall-mall, and for Charles  
at the Star and Garter in Strand, MDCXCVI.

*Die Martis Vicesimo primo Die Aprilis, Anno Domini, 1695. Annoque Regni Regis Gulielmi Tertii, Octavo.*

*At the Session of Oyer and Terminer for the County of Middlesex, Sitting in the Court of King's Bench at Westminster.*

**A**FTER the Tryal of *Ambrose Rockwood* was over, while the Jury were withdrawn to Consider of their Verdict, the Court proceeded in this manner.

*L.C. J. Holt.* Mr. Attorney Who will you have tryed next?

*Mr. Att. Gen. Cranburne,* if your Lordship pleases.

*Cl. of Arr.* Then, Keeper of Newgate, set *Charles Cranburne* to the Bar.

*L.C. J. Holt.* You, Gentlemen, that are of Council for the Prisoner, if you have any thing to move for your Clyent, you may move it; but first let the Prisoner be here.

Then *Charles Cranburne* was brought to the Bar in Irons.

*L.C. J. Holt.* Look you, Keeper. You should take off the Prisoners Irons when they are at the Bar, for they should stand at their ease when they are Tryed.

*Keeper.* My Lord, We have no Instruments here to do it just now.

*Cl. of Arr.* You may send to the Gate-House and borrow Instruments.

*Mr. J. Powell.* It should be done indeed; they ought to plead at ease.

*L.C. J. Holt.* Well, go on *Sir Bartholomew Shower.*

*Mr. Att. Gen.* My Lord, before *Sir Bartholomew Shower* enter upon his Exceptions, unless those Exceptions of his are some of the particulars mention'd in this Act, he must not do it now, after Plea pleaded, before the Tryal; but he must do it in Arrest of Judgment.

*L.C. J. Treby.* It is true, Regularly; but let him use his own Judgment.

*L.C. J. Holt.* It is very true; the course has not been to allow them to move to Quash an Indictment for Treason, or Felony; but it may be done.

*Mr. Att. Gen.* Sure it must be only for such things as they cannot take advantage of in Arrest of Judgment after the Verdict.

*L.C. J. Holt.* It has not been the course, but it may be done.

*Mr. Att. Gen.* Not where there is an Issue join'd, and a Jury return'd to Try that Issue; I believe that never was done, nor attempted.

*L.C. J. Treby.* If there were any prejudice to the King by it, it were not fit for us to alter the course; but let us hear what his Exceptions are.

*Sir B. Shower.* I have several Exceptions, Five at least; one of them is within the very words of the Act, that is, improper *Latin*; I am sure some of it is so.

*L.C. J. Holt.* Well, let's hear what that is.

*Sir B. Shower.* It says, *Anno Regni dicti Domini Regis nunc Septimo*, and *Lewis* is the last King mention'd before; and so here is no year of the King of England mention'd. It is a certain Rule, that Relatives must refer to the last Antecedent, and that Rule holds always, unless there be words that accompany the Relative, which undoubtedly shew to what it refers.

*L.C. J. Holt.* Ay; but do we call the French King *Dominus Rex*?

*L.C. J. Treby.* He would have been so, if he had succeeded in his Invasion, and this Aff. situation.

Sir B. Shower. In every Indictment, if there be occasion to mention a former King, it is always *nuper Rex*, and such a one, naming the name of the King, where the present King's name does intervene, to prevent Confusion; and so in Civil Actions it is the same; and so it should have been here.

Is it not *Our King*? but I tell you, it is *Dominus Rex nunc*, which is *Our King*.

Mr. Phipps. It is not said *Anglie*.

L. C. J. Holt. But wherever it is *Dominus Rex*, we understand it of the King of England, and nobody else. Read the Indictment.

Cl. of Arr. *Necnon eandem Dominum Regem ad Mortem & finalem Destructionem ponere & adducere, ac subditos suos fideles, & Liberos Homines Hujus Regni Anglie in servitum intolerabilem, & miserrimam Ludovico Regi Gallico subjugare, & Mancipare, Decimo Die Februarii, Anno Regni Dicti Domini Regis, nunc Septimo, & Diversis aliis Diebus, &c.*

L. C. J. Holt. Can any man imagine this to be the French King?

Sir B. Shower. My Lord, Your Lordship is not to imagine one way or other.

Mr. Comper. In the strictest Sense and Grammar in the World, it must mean King William, and no other. We do not need any imagination, when in the strictest Construction, it is plain who it refers to.

Sir B. Shower. I am sure no Grammar can make it good; nothing but a supposition can help it.

Mr. Comper. When it is said, *Dictus Dominus Rex*, if Sir Bartholomew Shower can find out another *Dominus Rex* in the Indictment, then he may make something of his Objection; but the *Dominus* is only apply'd to our own King throughout.

L. C. J. Tredy. Besides, as to the Rule that Sir Bartholomew Shower mentions, it is that *ad privatum Antecedens fiat Relatio nisi impediatur Sententia*. That's the Restriction of the Rule, it must relate to the next Antecedent, unless the sense would be prejudiced; but here if this Construction should be, it would make this Clause to be no better than nonsense, viz. That the Subjects and Freemen of this Realm were to be brought into intolerable Slavery to Lewis the French King, such a Day in the Seventh year of the Reign of our Lord the French King.

Sir B. Shower. We say it is little better than Nonsense, I am sure it is loose, and uncertain, and not Grammar, but carries a new Form with it.

L. C. J. Holt. No, It is as well as it can be.

Sir B. Shower. Then, My Lord, there is another Exception; it is said, *Diversi Diebus & Vicibus tam antea quam postea*; and then afterwards it says, *postea scilicet eodem Decimo Die Februarii*; that is repugnant; it is as much as to say, That upon the Tenth of February, and two days afterwards (to wit) the said Tenth day of February; that is, after two days after the Tenth of February, viz. upon the same Tenth day.

Mr. Att. Genl. That *Postea* is another Sentence, and relates to other matters.

Sir B. Shower. It can't in propriety of Speech be said to be afterwards the same day.

Mr. Sol. Gen. If Sir Bartholomew Shower remembers the Evidence that we have given this day, he will find it was in Fact so; they met on the Saturday Morning, and afterwards met again the Night of the same Day.

L. C. J. Holt. There is nothing in that Objection sure, it is a Common Form, which they tell of Different matters.

Sir B. Shower. Well then, if you will hear the rest which are not of the same nature, we shall come to what we think a fatal Exception; we say this Indictment of High-Treason being against a Subject born, ought to have had the words in it, *Contra Supremum naturalem Ligens Dominum suum*; according to Calvin's Case in the 7th Report. Fol. Septimo.

L. C. J. Holt. It is *Contra Ligantia sua Debitum*, is it not?

Sir B. Shower. That won't help it, My Lord, for all that is applicable to an Alien Born: And so is the Case in my Lord Dyer, 144. where it is said, That if



if an Indictment of Treason be against an Alien, you must not put in the word *naturalem*, if you do, it will be faulty, because he owes but a Local Allegiance to the King of England; and not a natural one. Now we say, there are none of these Prisoners but are Subjects born, and the constant Form in Queen Elizabeth's Time, and Queen Mary's, was to put in the word *Naturalem Dominum*, and they cannot shew me any of those Presidents without it. There was occasion in *Tucker's Case* to look into this matter, and search all the Presidents. I have look'd into my Lord Coke's Entries, and all the Presidents; I have seen my Lord of *Effex's* Indictment, and all the others in Queen Elizabeth's Time, and those of the Traitors in the Powder-Plot, and those of the *Regicides*, and *Tucker's* own Indictment it self; all along it is *Naturalem Dominum suum*; and the reason for it is, he that is Alien born, you never put in *naturalem Dominum suum*, because he owes a double Allegiance; one Natural, to his own King under whose Dominion he was born, and the other Local, to the King in whose Dominions he resides, for he is bound to observe the Laws of the place where he lives: And if he violate them, he does break the Allegiance that he owes to the Government where he lives, upon account of the Protection he enjoys under it. But if he be born a Subject of the King of England, he has but one natural Liege-Lord; and he being an *Englishman* born, the King stands in that Relation to him, as he does to all his Native Subjects, but not to Foreigners; and therefore it was thought requisite to be, and has always been inserted into Indictments of Treason against Subjects born. And my Lord, we think the very Resolution of the Court, afterwards affirm'd in the House of Lords that Revers'd *Tucker's* Attainder, went upon this Opinion; That the Law required *naturalem Ligeum Dominum* to be put in. There the Exception was, that *Contra Debitum Ligeantia sue* was omitted; To which it was Objected, that there was *Dominum Supremum Naturalem*, which was Equivalent: No, it was answered, both were requisite, because every act charg'd in the Indictment ought to be laid against the Duty of his Allegiance. Now in Indictments of Treason, there are certain words that are essential, because of their Relation between the King and his People. There are certain Forms of words, which if the constant practice has been to make use of them, the omission is an Error. Those usual Forms ought to be observ'd, and the want of them will be a fatal Exception; so we think it would be in this Case, as much as if the word *proditore* had been left out; or as if in a Case of Felony and Burglary, the words *Felonice*, and *Burglariter* had been left out.

Mr. Phipps. My Lord, we take the Practice, and Presidents to be the Rule of Law in the Case; and I have look'd over a great many Presidents, besides those that Sir Bartholomew Shower has Cited; and I never saw any one President of an Indictment of Treason against a Subject born without the word *naturalem*; and all the Cases cited by Sir Bartholomew Shower are full in the point. *Courtier's Case* in my Lord Hobbs, 271. where 'tis said, that if there be an Indictment against a Subject born, it must be *Contra naturalem Dominum*; if against an Alien, *naturalem* must be left out. To say *Contra Ligeantia sue Debitum* will not do, it is not enough, for that may be said against an Alien, because he owes a Local Allegiance, tho' not a Natural one. And I take it, upon this difference, this Indictment is not good.

Mr. Att. Gen. My Lord, I do not know how far you will think it proper to enter into this matter before the Trial.

L. C. J. Holt. Mr. Attorney. I think you had as good speak to it now as at another time; tho' I must confess it is not so proper in point of practice.

Mr. Att. Gen. Well, My Lord, then we will speak to it now. The Objection is, That the word *naturalem Dominum* is not in the Indictment; which they say is contrary to the usual Form: As to the Presidents, there are a great many where it has been, and I am sure a great many where it has not been; and I am sure for this Six, Seven or Eight years last past, it has always been omitted: And, with Submission to your Lordship, it is not at all necessary: If there be words in the indictment which shew, that what he did was against the Duty of his Allegiance to his Lawful and Undoubted Lord (which are the words



words in this Indictment). It is true, if he be not a Subject born, *naturalem* cannot be in, because that is contradictory to the Obedience which he owes, for it is not a Natural Obedience that he owes, but a Local; but if a Man be a Subject born, and commits Treason against the Allegiance that he owes, that is against his natural Allegiance; for whatsoever he does against his Allegiance, he does against his natural Allegiance, and so there's no need to put in the word *naturalem*; because he owes no other Allegiance but that; it is sufficient if that be put in which shews its being against his Allegiance. If they could shew that a Subject born has two Allegiances, one that is natural, and the other that is not natural; then if you would prosecute him you must shew, whether it was against his Natural, or against his other Allegiance. But when he has none but a natural Allegiance, certainly against his Allegiance, without putting in natural, will be well enough. It is true where there is no natural Allegiance, it must be wrong if you put it in, because you put in that Allegiance which he does not owe; but where he is a Subject born, to put in natural Liege Lord there is no ground at all for it; there are words enough that shew it was against his Allegiance to his Lawful and Undoubted Lord.

*L. C. J. Holt.* I ask you, Sir *Bartholomew Shower*, how does it appear, that these Men are Subjects born? The matter you go upon does not appear upon the Indictment, and you are not to go off from that.

*Sir B. Shower.* Every man is presum'd to be so, unless the contrary appears.

*L. C. J. Holt.* You quote *Calvin's Case*, and the other Cases that are there put; those are all Cases of Aliens; there is *Dr. Lepre's Case*; He being an Alien comes into England, and commits High-Treason: Why, say they, how shall we indict this man? We cannot say it is *Contra Naturalem Dominum suum*; for he owes no Natural Allegiance to the Queen of England; How shall we do to frame a good Indictment against this man? They considered of this; and they said it will be a good Indictment, to charge him with High-Treason, or any one else, leaving out the word *Naturalem*: For if it appear he has committed an Offence against the Laws of the Kingdom, and against the Duty of his Allegiance, which is High-Treason, that's enough. Now as to *Tucker's Case*, it was Reversed for want of the Conclusion, *contra Debitum Liegentie sue*. Those words are material; for let the Offence be never so much against the Person of the King, as to Assassinate him, or Levy War against him, yet still if it be not against the Duty of his Allegiance, as it cannot be if he owes him none, it is not High-Treason. And therefore if it be against his Allegiance, whether that Allegiance be Natural, or Local, it is all one; it's enough to make it High-Treason.

*Mr. Sol. Gen.* In that Case in *Dyer*, they shew where it was a fault to put the word in, but they can shew no Case where it has been adjudged to be a fault to leave the word out.

*L. C. J. Holt.* No doubt it would be a fault to have that in, *Contra Naturalem Dominum suum*, where there is only a Local Allegiance due.

*Mr. Phipps.* How does it appear whether it is the one or the other that is due?

*L. C. J. Holt.* It is no matter whether the one or the other do appear, it is High-Treason be it the one or the other, if it be against the Duty of his Allegiance.

*Mr. Phipps.* Suppose an Indictment against an Alien were, *Contra Naturalem Dominum*.

*L. C. J. Holt.* That would be ill, because then you had laid it more specially, and otherwise than really it is, and restrained it where you ought not to do it.

*Mr. Phipps.* How then, my Lord, shall it appear that he only ow'd a Local Obedience?

*L. C. J. Holt.* It may be given in Evidence, That he is an Alien born.

*Mr. Sol. Gen.* He may plead it in abatement to the Indictment.

*L. C. J. Holt.* He ought to be acquitted, for you have indicted him of a Crime against his Natural Allegiance, when he owes no such. But Allegiance generally comprehends all sorts of Allegiance, Natural, and Local.

*Sir B. Shower.* How then, my Lord, come all the Lawyers of all Ages to put in those words in Indictments of High-Treason against Subjects born?

*L. C. J. Holt.*

L. C. J. H. No, I have seen Abundance of Precedents, that have only *Contra Legitima sua Debitum* Generally, and for the most part are; for Allegiance is the Genus, and if that be suggested, all the species are contain'd under that.

Mr. Att. Gen. Well, have they any more.

Sir B. Shower. Yes, we have more.

Sir B. Shower. Well, you shall have them all in time. My Lord, here is another Objection, and that's this; here is one fact that they have laid, and that is the Second Overt Act in this Indictment, that they Consented and Agreed that Forty Men (Whereof these Four were to be Four) but do not lay it to be done Trayterously. They say *Conseuerunt Agreeuerunt & Assenserunt*, but not *proditorie*; and I never saw an Indictment that laid an expresse Overt Act, without Repeating the Word again. If your Lordship pleases, the Words in the Indictment are thus; as to the first Overt Act, it is laid in this manner, *Et ad execrabilem Assassinationem illam exequend.* at such a time and such a place *proditorie tractauerunt proposuerunt & Consultauerunt de vijs modis & medijs et &c.* and then comes this which we except against; *& Conseuerunt Agreeuerunt & Assenserunt quod Quadraginta Homines &c.* Now this is a plain Distinct Act, and there is no *proditorie* to it; and if ever they can shew me any Indictment, in which an Overt Act was laid, of which they gave any Evidence, and it had not the Word *proditorie* in it I am very much mistaken. I am sure, I never saw any such. And it is not enough to say, that the nature of the thing is such, as that it cannot but be a Treasonable Act; but they must alledge it to be so, by the expresse use of that Word, which the Law has appointed to expresse this Crime by. In the Case of an Indictment for Felony, if it be not said Felony, it is not good. They are not to Describe that by Circumlocution, which is a particular Crime fixt by Law, they must use the *Verba Artis*; the terms of Art, and no other: If your Lordship pleases it may be read.

Mr. Sol. Gen. Let it be read if you please; but take it in English, and it is no more then this, they Did Trayterously Compass the Death of the King, and for that purpose they Did Trayterously meet, and Consult about the ways and means, and did Consent and agree that Forty Men, &c.

Cl. of Arr. Reads, *Et ad execrabilem Horrendam & Detestabilem Assassinationem Anglice Assassinationem & Interfectionem illam Citius exequendum & anno ac Diversis alijs Diebus & Vicibus apud parochiam predictam in Comitatu predicto proditorie tractauerunt, proposuerunt & Consultauerunt de vijs modis & medijs ac Tempore & Loco ubi quando qualiter & quomodo Dilectum Dominum Regem sic ex Incidijs facilius Interficerent.*

Sir B. Shower. There is an end of that, now go on.

Mr. Att. Gen. No, Sir Bartholomew, you mistake there is no end of it, that's done at the same time with that which follows.

Sir B. Shower. No it is not the same Overt Act; but let him go on.

Cl. of Arr. *Et Conseuerunt Agreeuerunt & Essenserunt quod quadraginta Homines Equestres.*

Sir B. Shower. Well, you need read no further for our Objection. We say, there wants the Word *Proditorie*: For there are two Overt Acts, the one is, that they Trayterously did Consult of the ways and means, how to Kill the King, and that Overt Act we agree to be well laid: But then it says they Consented, and agreed that there should be Forty Men, whereof these Four should be Four, but does not say they Trayterously agreed are not these Distinct Acts?

Mr. Phillips. Surely, My Lord, they are distinct Acts, for this part of the Indictment upon which Sir Bartholomew grounds his Objection, is that Overt Act of which the List in Mr. Rookwood's case was urg'd by the Kings Council, and agreed by the Court to be an Evidence.

Then the Jury against Mr. Rookwood came in, and deliver'd in their Verdict, as it is in his Tryal, then afterwards the Court went on thus.

M. Att.

Mr. Att. Gen. My Lord, the Objection is, that *proditore* is not in Inserted into that Particular Clause of the Indictment, which shews there Particular agreement that there should be Forty Men, whereof the Four nam'd in the Indictment were to be Four. Now your Lordship Observes how the Indictment Runs, it is for Compassing and Imagining the Death and Destruction of the King; and it sets forth for this purpose, that to effect this Compassing and Imagination, they *Proditore tractaverunt & Consultaverunt de vijs medijs & Modis*, how they should Kill the King. Now that which Immediately follows after is, the particular method, and means that were agreed upon, that is, that there should be Forty Men. Now this is the strangest suggestion that ever was, when we have set forth, that Trayterously they Did so agree of the ways and means, and then set forth the particular means that here must be *proditore* again to that. This is such a Construction as I cannot but admire how it could come into any ones head. It is part of the sentence; for the other part, as we have laid it, is not Compleat before: It may be it might be sufficient without setting forth the particular way, and means, but when it is set forth, it is part of the sentence, and Refers to the first beginning.

L. C. J. Holt. Aye sure so it does.

Mr. Att. Gen. I cannot tell what they would have unless they would have us repeat the Word *proditore* in every line.

Mr. Sol. Gen. Or before every Verb.

Sir B. Shower. No, but I think it ought to be repeated at every Overt Act.

Mr. Conyers. If your Lordship pleases, after that they have set forth that this was the particular method and way agreed upon at their Consultation, that Forty Horsemen or thereabouts should go about it, of which the Persons Indicted were to be Four, it goes on, & *Quilibet eorum proditorie super se suscepit esse unum* there it is put in, and it appears to be as particular as possible can be.

Mr. Cowper. Sir Bartholomew Shower says, that when we have Alledg'd that they did Trayterously treat, propose, and Consult of the means and ways of Killing the King, there we have done the sentence and made that one Overt Act. Now how is the sentence done? The next Word is a Conjunction Copulative, & *Consenserunt*, &c. And what is the use of a Conjunction Copulative? But to Convey the Force of the Words in a Former sentence to the sentence following, and to prevent the Repetition of every Word in the subsequent sentence that was in the precedent: But it is plain, they are both one and the same Overt Act, and these subsequent Words are only an Explanation, more particularly of the Overt Act set forth in the precedent Words.

Sir B. Shower. In answer to that, that has been said, if they shew me any precedent, where an Indictment has been for High Treason, setting forth several Overt Acts, and not the Word *proditore* set to every Overt Act, then they answer my Objection. If the Word *Quod* had come in, that would have made them distinct to be sure; and I think they are as distinct Acts now; suppose they had Concluded at the end of the word *Interficere* that had been a good Overt Act, I am sure they will agree that: And if it be so, then the other is a good Overt Act too. For it is a distinct thing from that which was a perfect sentence before; and it either requires a likewise or the Word *Proditore* must be repeated. They have not so much as said *similiter Consenserunt* or *simili modo* ther is an (&) indeed, but that does not so Couple the sentences together, as not to make them distinct Acts. There are several *et*s thorough the whole Indictment, but that does not, as Mr. Cowper would have it, Couple altogether to make one Overt Act.

Mr. Phipps. My Lord, if what Mr. Cowper says be allow'd, (*viz.*) that the & makes it one intire Sentence, then there is no Overt Act at all, for after



after the Treason alledg'd and the Clause is coupled to another by an *Et*; and consequently by Mr. *Cowper's* way of arguing the whole Indictment is but one intire Sentence.

*L. C. J. Holt.* I do not understand your meaning as to that, they tell you *Proditors* it is alledg'd to the Consulting, Contriving and Agreeing, then they tell you what was the subject Matter of that Contrivance and Agreement to Assassinate the King, and in order to that they agreed there should be 40 Men, is not that good enough, without *Proditors* to every line.

*Sir B. Shower.* No it is not said in *Ordine ad*, there is no such thing; but onely they did Consult of the Ways and Means, and did Agree that 40 Horsemen should do it, and afterwards did agree to provide Horses and Instruments of War. Now that being with a *Quodque*, they say makes a new Overt Act; but I cannot understand why *Quodque* is not as much a *Copulative* as *Et*, and the one should not have the same effect as the other.

*L. C. J. Holt.* First it tells you there was a Consult and Agreement to Assassinate the King, and for the Accomplishing of the said Assassination, afterwards *eisdem die & Anno Proditoris Tractaverunt & Consultaverunt de vijs & modis*, how they should Kill the King.

*Sir B. Shower.* That is one Overt Act, say we, and there you should stop.

*L. C. J. Holt.* *Et Consenserunt & Agreeverunt quod quadraginta Homines*, &c. it is all at the same time, and must be Intended the same Consult and Contrivance; that they Consulted of the ways and means, and then agreed so many Men should be provided.

*Mr. Phipps.* No, My Lord, we say that is another Overt Act.

*L. C. J. Treby.* It seems to me to be a specifying, and particularising the way and means, that they had Consulted of, and Concluded on.

*Sir B. Shower.* If it had been a specifying, it had been much better to put in either then and there, or that this was the Result of the Consultation.

*L. C. J. Treby.* It do's seem to me so, that it was the Result of the Consultation, and it is well enough.

*Sir B. Shower.* If this be well enough, I do not know, what will not be well enough.

*L. C. J. Holt.* You had better have sav'd these kind of Exceptions till the Tryal was over.

*Sir B. Shower.* But, my Lord, if there be one Overt Act ill laid, I submit it whether they can give any Evidence of that Overt Act.

*L. C. J. Treby.* No doubt of that they cannot; but we think it is as well laid as it could be laid.

*L. C. J. Holt.* Truly I am not well satisfied, that it is necessary after you have laid the *Proditoris*, as to the particular Treason, to lay it again to the Overt Act. For the Overt Act is but Evidence of the Treason: The Treason it self lies in the Compassing which is an Act of the mind.

*L. C. J. Treby.* You cannot Indict a Man of Treason for Assassinating or Killing the King; but you must in every such Case frame the Indictment upon the Article for Compassing and Imagining the Death of the King, which must be laid to be done Trayterously. Then when afterwards you say the Person accused did Wound him, or Imprison him, or Consult and agree to Assassinate Him, or did actually Assassinate Him, these are but so many Overt Acts of Compassing the Death, and you having first said that he did *Proditoris* compass and imagin the King's Death, you have thereby shewn that you charge him with a greater Offence than Felony (which my Lord *Coke* says is the use of the word *Proditoris*;) and that being thus done, I do not apprehend it to be necessary that you should ad *Proditoris* to all the rest of the following particulars; for they are

are only external Discoveries of the inward Treason; and more properly deemed to be Evidence of the Treason, than to be the Treason it self.

*L. C. J. Holt.* The Treason is consummate in the Intention, besides the words of the Statute make that the Treason, not the Overt Act, that is but Evidence, and so it was held, (not upon this Exception, but upon the reason that my Lord Speaks off) in Case of the Regicides of King Charles the First, That the Indictment should not be for Killing the King, but for Compassing and Imagining his Death; and the Killing was allowed as an Overt Act.

*Sir B. Shower.* It must be so if it were for levying of War.

*L. C. J. Holt.* Most true, for levying the War is the Treason, but in this Case we think it is no exception.

*Mr. Att. Gen.* Then let us have the Fifth.

*Sir B. Shower.* Then, my Lord, here is another Thing. It is a Question whether there be any Overt Act presented by the Jury at all. The Indictment say's, *Juratores pro Domino Rege presentant*, that they as false Traytors did Compass the Death of the King, and the Slaughter of his Subjects, and they did Meet, and Consult, and Agree how to do it, *Et ejdem Christophorus Knightsley* and the rest, to fulfil their said Trayterous Intentions and Imaginations did: Afterwards the tenth of February Buy Arms and Horses. Now our Objection is, that it does not appear, that any one of these Overt Acts are the presentment of the Jury; With Submission they ought to have begun it again, either with a *Quodque*, or something that should have referred it to the first, *Juratores presentant*, or else they must have begun quite again, with a *Juratores Uterius presentant*, and not have coupled them as this is with an *ulterius presentant*, and not have Coupled them as this is with an *Et*. The most forms begin with an *Uterius presentant*, but here we find no Overt Act is so Introduced. They might present part, and not present the other part, for any thing that does appear. Every Thing ought to be laid positively, as the Jury's *Dictum*, it may be onely the Clerks saying, and not the Juries, for any thing that do's appear. Your Lordship remembers the Case of the King and *Trobridge*: *Trobridge* upon a Writ of Error to Reverse a Judgment for Erecting and Continuing a Cottage against the form of the Statute, now *Contra formam Statuti* was in the beginning of the Indictment; but not in the Conclusion; to the Erecting, but not to the Continuing. And tho' there was there *Juratores, Uterius dicunt*, it was not *super Sacramentum suum*, and they did not say, he did continue it against the Statute, and there being no formal, presentment that he maintain'd the Cottage notwithstanding the Act, *Et* did no so Couple it to the first part, as to make it a good presentment. So we say in this Case, this is a fault, and different from all the Common Forms; there ought to be a Direct presentment of each Overt Act, and not Coupled by an *Et*. For *Et* will not do it; for it is a Distinct Overt Act every one, and should have been *Et Quod Consultaverunt, quodque Agreeverunt*, that a certain number should do so and so, and to be sure, it should have been so at the last Overt Act, which is onely, *Et ejdem Christophorus Knightsley* did Buy Arms and Horses. Now this last *Et*, being a loose Conjunction *Copulative*, in common Sense ought to Refer to that which they had agreed upon, for that is last mention'd there; and the natural Sense leads thither, and not to the beginning of the Bill *Juratores presentant quod*.

*Mr. Phipps.* I shall not trouble your Lordship further, they ought to have put in a *Quodque*, or an *Uterius presentant*.

*Mr. Att. Gen.* Where would you have the *Quodque*, or the *Uterius presentant*?

*Mr. Phipps.* Either to every Overt Act, or at least to that last.

*Mr. At. Ge.* The Indictment sets forth, that they Committed such, and such Treason; Their objection is that *Quodque* is not put in to every overt Act, and our



our Answer is, That the first *Quod* governs all that relates to that Treason. It may be if there were two distinct Treasons in the Indictment, when you come to set forth the Second Treason, you should say *Juratores ulterius presentant* the Second Treason; but the Overt Acts to prove the same Treason, are all parts of that Treason, and make but one Species of Treason, which is the imagining the Death of the King. There's the Treason; and to bring it to pass, they did so, and so: This, my Lord, must be part of the finding of the Jury as well as the Treason it self, of which these are the Overt Acts. But then if you will lay the levying of War in the same Indictment, then it may be you must say *Juratores ulterius presentant quod*, &c. But it had been a strange Absurdity to say, *Juratores ulterius presentant* such and such Overt Acts: For the Overt Act is not a further Indictment, but only a setting forth that which is Evidence, upon which they found the Indictment for Treason.

*Mr. Sol. Gen.* What the Indictment says, is a direct Affirmation as can be all along in the Presentment of the Jury, that the Prisoner and others did compass and imagine the Death of the King, and to bring it about, they did consult together, and did agree to make use of such and such Means, and were to have a Party of 40 Men, and they bought Arms and Horses. Now it does not repeat *quodque*, or *ulterius presentant quod*, to every one of those Sentences, that they did so and so, and that they did so and so. Now I would feign know the Difference between saying, and they did such a thing, and saying, and that they did such a thing. That's all the Difference that they think to overturn this Indictment for. The omitting of a *Juratores ulterius presentant*, certainly is nothing; for the first Presentment runs through the whole Indictment, and there does not need an *Uterius*.

*Sir B. Shower.* Certainly there should have been a *Quodque* at least.

*L. C. J. Holt.* No indeed, I think it is better as it is, than as you would have had it; because the first *Quod* goes through the whole, That in Order thereunto he did so and so, would you have it said *& quod* in Order thereunto he did so and so, but that may be good Sense, I think it is not so good as the other. This Indictment is for one sort of Treason, and that is, for compassing the Death of the King; and it is, I think, more proper to have but one *Quod*, than to have more; for it makes the whole Indictment more entire. As to the *Juratores ulterius presentant*, that is never proper, where the Species of Treason is the same: For indeed if there had been two distinct Treasons, the one for compassing the Death of the King, and the other for levying of War, in that Case you must bring it in by *ulterius presentant*; because they are two several Offences, tho' comprisd in one Bill, and they are in Law as two Indictments. And so it is in the Case that you mention'd of Cottages: It is one Offence to erect a Cottage, and another Offence to continue a Cottage, and they are to have several Punishments; and because they were jumbled them both together in one Indictment, that Indictment was held to be nought: For by Law, the Indictment for erecting a Cottage, ought to conclude *contra formam Statuti*, and then the Jury must begin again, *& ulterius presentant quod* the Cottage was continu'd against the Form of the Statute; because they are several Offences. But here the High Treason is but one, and the same Offence, and the other things are but Overt Acts to manifest this Treason, the compassing the Death of the King; and truly I think it is better as it is.

*Mr. Phipps.* I have seen several Precedents of Indictments, where the several Overt Acts were to the same High-Treason, but still they had each an *ulterius presentant*.

*Mr. At. Gen.* I believe it is hard to find many Indictments in the same Words: I am sure all are not.

*L. C. Baron.* Is it not as great an Affirmation to say, and they did such a thing, as to say, and that they did such a thing.

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L. C. J. Holt.

*L. C. J. Holt.* I cannot reconcile it to my Reason, but it should be as good Sense without *that* as with.

*L. C. J. Treby.* In a long Deed it begins, *This Indenture witnesseth, that* the Party granted so and so, and the Party Covenants thus and thus; and so it goes on commonly, without renewing the Word *That* to the subsequent Clauses: But yet the first Expression [*This Indenture witnesseth, that*] governs the whole Deed, tho' it be many Skins of Parchment.

*L. C. J. Holt.* If you begin with an Indenture, you begin, *That* it witnesseth so, and so, without Renewing, unless it be a very distinct Thing.

*S. B. Shower.* My Lord, we think that Similitude makes for us. *A. B.* Covenants so and so in a Conveyance, and then further, *that* so and so.

*L. C. J. Holt.* But there you restrain *that* in the Beginning of the Covenant to every Particular in that Covenant.

*Mr. At. Gen.* Will your Lordship please to call the Jury now?

*L. C. J. Holt.* Have you a Mind to go on with the Trial, or to go to Dinner?

*Mr. At. Gen.* I believe your Lordship can try but one more to Night, and that may be as well after Dinner as before.

*L. C. J. Holt.* Well then, adjourn till 5 a Clock, and in the mean time, you Keeper, knock off the Prisoners Fetters.

*Keeper.* They shall, my Lord.

*Then the Court adjourned till 5 a Clock in the Afternoon, & being then about 3.*

*Post Meridiem, the 21st of April, 96. The Court returned, and was resum'd about 6 in the Evening.*

*Cl. of Ar.* Keeper of Newgate, bring *Charles Cranburne* to the Bar (which was done) *Charles Cranburne*, hold up thy Haud. (which he did) Those good Men that you shall hear called and personally appear, are to pass between our Sovereign Lord the King and you, upon Tryal of your Life and Death; and therefore if you will challenge them or any of them, your time is to speak unto them as they come to the Book to be sworn, and before they be sworn.

*Cranburne.* My Lord, I humbly desire I may have Pen, Ink, and Paper.

*Court.* Aye. Aye. *He had them.*

*Cl. of Ar.* Where is *George Ford*?

*Crier.* Vouz Avez.

*Cranburne.* I challenge him.

*Cl. of Ar. William Underhill.*

*Cranburne.* I challenge him.

*Cl. of Ar. William Withers.*

*Cranburne.* I challenge him.

*Mr. Phipps.* If your Lordship pleases, those that were of the last Jury I hope shall not be call'd off this Jury: This Prisoner being tryed upon the same Indictment the last was.

*L. C. J. Holt.* If they be not, it shall be in Ease to them, but it is not in favour of you.

*Mr. Phipps.* We humbly conceive, having given their Verdict upon the same Indictment, they are not such indifferent Persons, as the Law intends they should be, and think it is good reason they should not serve upon this Jury.

*L. C. J. Holt.* What tho' it be upon the same Indictment, the Evidence is not the same; for they are distinct Offences.

*Mr. Phipps.* I do not know whether it be a good Cause of Challenge, but submit it to your Lordship.

*L. C. J. Holt.* Well, you may doubt of it if you please, and try the Exception.

*Cl. of Ar.*

Cl. of Ar. *Thomas Trench.*

Cranburne. I challenge him.

Cl. of Ar. *John Wolfe.*

Cranburne. I challenge him.

Cl. of Ar. *James Bodington.*

Cranburne. I challenge him.

Cl. of Ar. *Jonathan Andrews.* (He did not appear.) *John Raymond.*

Cranburne. I challenge him.

Cl. of Ar. *George Hawes.*

Cranburne. I challenge him.

Cl. of Ar. *Francis Barry.*

Cranburne. I challenge him.

Cl. of Ar. *Arthur Bailey.*

Cranburne. I challenge him; he was upon the last Jury.

L. C. J. *Holt.* That is no reason; Will you challenge him peremptorily?

Cranburne. I do challenge him.

Cl. of Ar. *John Caine.*

Cranburne. I don't except against him.

Cl. of Ar. Hold Mr. *Caine* the Book, *Cryer.*

*Cryer.* Look upon the Prisoner, Sir. You shall well and truly try, and true Deliverance make between our Sovereign Lord the King and the Prisoner at the Bar, whom you shall have in Charge, and a true Verdict give, according to your Evidence, so help you God.

Cl. of Ar. *Thomas Glover.*

Cranburne. I challenge him.

Cl. of Ar. *Dormer Sheppard.* (He did not appear) *George Tredway.* (He did not appear) *Matthew Bateman,* (He did not appear) *Timothy Thornbury.*

Cranburne. I challenge him.

Cl. of Ar. *James Parberich,*

Cranburne. I challenge him.

Cl. of Ar. *Thomas Freeman.* (He did not appear) *Robert Bredon.*

Cranburne. I do not Except against him. (he was Sworn.)

Cl. of Ar. *Joseph Blisset.*

Cranburne. I challenge him.

Cl. of Ar. *Timothy Lannoy.* (He did not appear) *John Harris.* (He did not appear) *John Billers.*

Cranburne. I have nothing to say against him. (he was sworn.)

Cl. of Ar. *Richard Bourn.*

Cranburne. I do not Except against him. (he was sworn.)

Cl. of Ar. *George Carter.* (He did not appear.) *Francis Chapman.*

Cranburne. I challenge him.

Cl. of Ar. *Alexander Forth.*

Cranburne. I challenge him.

Cl. of Ar. *Nicholas Roberts.*

Cranburne. I have nothing to say against him (he was Sworn.)

Cl. of Ar. *Thomas Playstead.*

Cranburne. I challenge him.

Cl. of Ar. *William Atlee.*

Cranburne. I challenge him.

Cl. of Ar. *John Marsh.* (He did not appear) *Andrew Cook.*

Cranburne. I do not Except against him. (he was sworn)

Cl. of Ar. *John Hall.*

Cranburne. I challenge him.

Cl. of Ar. *William Partridge.*

Cranburne. I challenge him.

Cl. of Ar. *Peter Levisne.*

Cranburne. I challenge him.

Cl. of Ar. *Thomas Moody.*

Cranburne. I challenge him.

Cl. of Ar. *Richard Bealings.*

Cranburne.

*Cranburne.* I challenge him.

*Cl. of Ar. Thomas Evans.*

*Cranburne.* I do not Except against him. (*He was sworn.*)

*Cl. of Ar. Thomas Ramage.*

*Cranburne.* I have nothing to say against him. (*he was sworn.*)

*Cl. of Ar. Edward Townsend.*

*Cranburne.* I challenge him.

*Cl. of Ar. William Gunson.*

*Cranburne.* I challenge him.

*Cl. of Arr. Philip Wightman.*

*Cranburne.* I say nothing against him. (*he was sworn.*)

*Cl. of Ar. John Wyborne.*

*Sir B. Shower.* I hope you take an Account of the Challenges, *Mr. Hardesty.*

*L. C. J. Holt.* Nay, you should take care of the Challenges, who are his Council; if he had no Council we would take care of him.

*Cryer.* Here is *Mr. Wyborne*, What say you to him?

*Cranburne.* I have nothing to say. (*he was sworn.*)

*Sir B. Shower.* I hope your Lordship will also be of Council for him.

*L. C. J. Holt.* We are to be equal and indifferent between the King and the Prisoner: But you that are now his Council by Law, ought to take care that he lose no Advantage.

*Cl. of Ar. William Strode.*

*Cranburne.* I have nothing to say against him. (*he was sworn.*)

*Cl. of Ar. Daniel Byfield.* (*He did not appear.*) *Benjamin Noble.* (*He did not appear.*) *Thomas White.*

*Cranburne.* I do not Except against him. (*he was sworn.*)

*Cl. of Ar. Cryer Countez.* *John Caine.*

*Cryer.* One, &c.

*Cl. of Ar. Thomas White:*

*Cryer.* Twelve good Men and true, stand together, and hear your Evidence.

*The Names of the Twelve Sworn were these,*

<i>John Caine, Esq;</i>	} Jur.	<i>Thomas Evans, Gent.</i>
<i>Robert Bredon, Esq;</i>		<i>Thomas Ramage, Gent.</i>
<i>John Billers, Esq;</i>		<i>Philip Wightman, Gent.</i>
<i>Richard Bourn, Esq;</i>		<i>John Wyborn, Gent.</i>
<i>Nicholas Roberts, Gent.</i>		<i>William Strode, Gent. and</i>
<i>Andrew Cook, Gent.</i>		<i>Thomas White, Gent.</i>

*Cl. of Ar. Cryer,* make Proclamation.

*Cryer.* Oyez. If any one can inform my Lords the King's Justices of Oyer and Terminer, the King's Serjeant, or the King's Attorney General, before this Inquest be taken of the High-Treason, whereof the Prisoner at the Bar stands indicted, let them come forth and they shall be heard; for now the Prisoner stands at the Bar upon his Deliverance: And all others that are bound by Recognizance to give Evidence against the Prisoner at the Bar, let them come forth, and give their Evidence, or else they forfeit their Recognizance.

*L. C. J. Holt.* *Mr. Attorney,* Do you think we shall be able to try the other to Night.

*Mr. At. Gen.* That is according as this holds, my Lord.

*L. C. J. Holt.* I speak it for the Ease of the Jury, that they might be dispatch'd, and not attend another Day.

*Mr. At. Gen.* I doubt we cannot try any more than this to Night.

*L. C. J. Holt.* Well it is no great Matter, it will be but a Morning-Work; it may be too great a Stress and a Hurry to do any more to Night; and therefore we will discharge the Jury for to Night, those of them that

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are not sworn; but we will be here to Morrow-Morning by seven a Clock; and therefore pray Gentlemen attend early.

*Cl. of Ar. Charles Cranburne*, Hold up thy Hand, (which he did) You that are sworn, look upon the Prisoner, and hearken to his Cause: He stands indicted by the Name of *Charles Cranburne*, late of the Parish of *St. Paul Covent-Garden*, in the County of *Middlesex*, Yeoman, for that he with *Christopher Knightsley*, late of the same Parish and County, Gentleman, *Robert Lowick*, late of the same Parish and County, Gentleman, and *Ambrose Rookwood*, late of the same Parish and County Gentleman, the Fear of God in their Hearts not having, nor weighing the Duty of their Allegiance, but being mov'd and seduc'd by the Instigation of the Devil, against the most Serene, most Illustrious, most Clement, and most Excellent Prince, our Sovereign Lord, *William* the third, by the Grace of God, of *England, Scotland, France and Ireland*, King, Defender of the Faith, &c. their supreme, true, rightful, lawful, and undoubted Lord, the Cordial Love, and the true and due Obedience, Fidelity and Allegiance which every faithful Subject of our said Lord the King that now is, towards him our said Lord the King shou'd bear, and of Right ought to bear, withdrawing and wholly to extinguish intending and contriving, and with all their Strength, purposing, designing and conspiring the Government of this Kingdom of *England*, under him our said Lord the King that now is, of Right, duly, happily, and very well establish'd, altogether to subvert, change and alter; as also our said Lord the King to Death and final Destruction to put and bring, and his faithful Subjects, and the Freemen of this Kingdom of *England* into intolerable and most miserable Slavery to *Lewis* the French King to subjugate and enthrall, the 10th day of *Feb.* in the 7th year of the Reign of our said Lord the King that now is, and divers other days and times, as well before as after, at the Parish of *St. Paul Covent-Garden* aforesaid, in the County aforesaid, Falsly, Maliciously, Devilishly, and Trayterously did compass, imagine and contrive, purpose, design and intend our said Lord the King that now is, to slay, kill and murder, and a miserable Slaughter among the faithful Subjects of him our said Lord the King, throughout this whole Kingdom of *England* to make and cause, and their said most Wicked, Impious, and Devilish Treasons, and Trayterous Compassings, Contrivances and Purposes aforesaid, to fulfil, perfect; and bring to effect, they the said *Christopher Knightsley*, *Robert Lowick*, *Ambrose Rookwood*, and *Charles Cranburne*, and very many other false Traytors, to the Jurors unknown. Afterwards, to wit the same Tenth Day of *February*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, and divers other Days and Times, as well before as after, there and elsewhere in the same County, falsely, maliciously, advisedly, secretly, traiterously, and with Force and Arms, did meet, propose, treat, consult, consent, and agree, him our said Lord the King that now is, by lying in wait and wile, to Assassinate, Kill and Murder: And that execrable, horrid, and detestable Assassination and Killing the sooner to execute and perpetrate. Afterwards, to wit, the same Day and Year, and divers other Days and Times, at the Parish aforesaid, in the County aforesaid, traiterously did treat, propose, and consult of the Ways, Manner, and Means, and the Time and Place where, when, how, and in what manner our said Lord the King so by lying in wait the more easily they might kill: And did consent, agree, and assent, that Forty Horsemen, or thereabouts (of whom they the said *Christopher Knightsley*, *Robert Lowick*, *Ambrose Rookwood*, and *Charles Cranburne*, should be four, and every one of them trayterously took upon himself to be one) with Guns, Muskets, and Pistols, charged with Gun-powder and Leaden-Bullets, and with Swords, Rapiers, and other Weapons, armed, should lie in wait, and be in ambush our said Lord the King, in his Coach being, when he should go abroad, to set upon; and that a certain and competent Number of those Men so arm'd, upon the Guards of our said

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Lord the King, then attending him, and being with him, should see upon, and them should fight with, and overcome; whilst others of the same Men so armed, him our said Lord the King should Assassinate, Slay, Kill and Murder. And they the said *Christopher Knightley*, *Robert Lowick*, *Ambrose Rookwood*, and *Charles Cranburne*, the Treasons, and all their treasonable Intentions, Purposes and Contrivances aforesaid to execute, perform, fulfil, and bring to effect. Afterwards, (to wit) the aforesaid Tenth Day of *February*, in the Seventh Year aforesaid, at the Parish aforesaid, in the County aforesaid, divers Horses, and very many Arms, Guns, Pistols, Swords and Rapiers, and other Weapons, Ammunition, and Warlike things, and Military Instruments, falsely, maliciously, secretly and traiterously did obtain, buy, gather together, and procure; and to be bought, obtain'd, gather'd together, and procur'd, did cause with that intent them in and about the detestable, horrid, and execrable Assassination, Killing, and Murder of our said Lord the King that now is, as aforesaid, to be us'd, imploy'd, and bestow'd: And the same Premises the more safely and certainly to execute, do, and perpetrate, the aforesaid *Christopher Knightley*, with one *Edward King* (late of High-Treason in contriving and conspiring the Death of our said Lord the King that now is, duly convicted and attainted) by the Consent and Assent of divers of the Traytors and Conspirators aforesaid, the aforesaid Tenth Day of *February*, in the Seventh Year aforesaid, trayterously did go, and came unto the place proposed, where such intended Assassination, Killing, and Murder of our said Lord the King, by lying in wait, should be done, perpetrated and committed, to view, see, and observe the conveniency and fitness of the same place for such lying in Wait, Assassination, and Killing, there to be done, perpetrated, and committed; and that place so being seen and observed. Afterwards, to wit, the same Day and Year, his Observations thereof to several of the said Traytors and Conspirators did relate and impart, to wit, at the Parish aforesaid, in the County aforesaid; and the said *Charles Cranburne* the same Day and Year there, in order the same execrable, horrid, and detestable Assassination and Killing of our said Lord the King, by the Traytors and Conspirators aforesaid, the more readily and boldly to execute, perpetrate, and commit, advisedly, knowingly, and trayterously did bear and carry among divers of those Traytors and Conspirators forward and backward from some to others of them, a List of the Names of divers Men of them who were designed and appointed our said Lord the King, so as aforesaid, by lying in wait, to Kill and Murder, against the Duty of his Allegiance, and against the Peace of our said Sovereign Lord the King that now is, his Crown and Dignity, and against the Form of the Statute in that Case made and provided. Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not guilty, and for his Tryal hath put himself upon God and the Countrey, which Countrey you are; your Charge is to inquire whether he be guilty of the High-Treason whereof he stands indicted, or not guilty: If you find him guilty, you are to inquire what Goods or Chattels, Lands or Tenements, he had at the time of the High-Treason committed, or at any time since: If you find him not guilty, you are to enquire whether he fled for it: If you find that he fled for it, you are to inquire of his Goods and Chattels as if you find him guilty: If you find him not guilty, nor that he did fly for it, you are to say so and no more; and hear your Evidence.

*Mr. Montague.* May it please your Lordship, and you Gentlemen of the Jury; This is an Indictment of High-Treason that is found against four Persons; but the particular Treason against the Prisoner at the Bar is for compassing and imagining the Death of the King, and endeavouring to subvert the Government, and enslave the Nation to *Lewis the French King*: And the Indictment sets forth, that the Prisoner at the Bar did for this purpose meet and consult with several false Traytors to the King and Government,

vernment, of the way, manner, and means how, and the time and place when and where to Assassinate the King; and at length they agreed that forty Horsemen should go together, and set upon the King in his Coach, as he returned from Hunting; some to attack the Coach, while others set upon the Guards. The Indictment does further charge him with getting Horses and Arms, and particularly with carrying a List of the Assassins from one to another. These are the particular things charged in the Indictment, and to this Indictment he has pleaded Not guilty; if we prove the Fact, Gentlemen, we don't doubt your Justice.

*Mr. At. Gen.* May it please your Lordship, and you Gentlemen of the Jury; The Prisoner at the Bar, *Charles Cranburne*, is indicted for High-Treason, in compassing and imagining the Death of the King. Gentlemen, the Overt Acts laid in the Indictment to prove the Prisoner guilty are, That he was at several Meetings and Consultations about the manner of putting this Design in Execution; at which Meetings it was agreed, That there should be about forty Horsemen in Number prepare'd, and arm'd for that purpose, and they did provide Horses and Arms for that very thing, and did agree to put it in execution.

Gentlemen, the Evidence that you will hear produc'd against the Prisoner at the Bar will be of this Nature. You will hear from the Witnesses, that about *Christmas* last, or the Beginning of *January*, *Sir George Barclay* did come over from *France* from the late King *James*, to whom he was an Officer in his Guards, with a Commission for attacking the Prince of *Orange*, or levying War upon his Person. He came over about that time, and several Troopers of the late King *James's* Guards, to assist him in that barbarous Conspiracy. When *Sir George Barclay* came over, he did acquaint with this Design several Persons in *England*, that he thought proper to be Accomplices with him in it, particularly *Capt. Porter*, *Mr. Chernoock*, *Sir William Parkyns*, and several others whose Names you will hear of, and they had several Meetings about it the Beginning of *February*, at *Capt. Porter's* Lodgings, at the *Nagg's Head* in *Covent-Garden*, at the *Sun Tavern* in the *Strand*, at the *Globe Tavern* in *Hatton-Garden*, and several other Places where they consulted in what manner they might attempt and accomplish this Bloody Design.

Gentlemen, you will hear, that at these Meetings it was propos'd, that they should do it by Ambuscade as the King came from *Richmond* a Hunting, whither he used to go upon *Saturdays*: Others were for doing it on this side the Water. And so their Opinions being divided, it was thought necessary to find out and settle which was the best Place; and in order thereunto they employ'd *Capt. Porter*, *Mr. Knightsly*, and *Mr. King* (who was executed) to view the Ground, and accordingly they went, and pitch'd upon the Lane between *Brentford* and *Turnam Green* for this purpose, as the most convenient Place: And having so done, they came back and gave an Account to those that had appointed to meet 'em, to hear the Success of their Expedition, to the *Nagg's Head* in *Covent-Garden*, and in that Place you will find by the Evidence, that those Persons, who were the Heads of the Conspiracy, undertook to find their several Proportions of Men, for whom they would undertake that would go with them, and be concern'd in this Design. *Sir George Barclay* was to furnish about 20. He had the Command of the Troopers that came from *France*, and those other Officers that came thence, were under him. *Capt. Porter* was to furnish 7, *Chernoock* was to furnish 8, *Sir William Parkyns* was to furnish 5 Horses and 3 Men, and, I think, *Lowick* was to furnish some more: In the whole Number they reckon'd there should be about 40.

It will appear, Gentlemen, that the Prisoner at the Bar, *Mr. Cranburne* was one of the Men that *Capt. Porter* undertook to get, and engage in this Design; and accordingly *Capt. Porter* did acquaint *Mr. Cranburne* with it; and he did undertake to be one, and to be ready to go with him, and be concerned in this Assassination. You will find he was acquainted with it about the 14th of *February*, the Day before the first time that they intended

tended to assault the King : Then he did undertake and agree to prepare himself against the next Day. The next Day which was the 15th of February, they had several Meetings, and they were making Preparation in order to go out. It happen'd by great Providence his Majesty did not go abroad that Day, and thereupon they dispers'd themselves ; but they had Meetings afterwards, at which Meetings the Prisoner was present, with Capt. Porter, Mr. Pendergrafs, La Rue, and several others that were concerned in the Conspiracy, particularly the 21st of February, the Day before the second time they were to have put this in Execution. Capt. Porter being at the Sun-Tavern, with several other Gentlemen, and they resolving to have it executed the next Day, if the King went abroad. Capt. Porter sent for Cranburn, and Keys that was executed, and Kendrick and Sberborn, four of those that he had undertaken for, (of whom, I say, Cranburne, the Prisoner at the Bar, was one) and then he acquainted 'em that they were resolv'd to go on with it the next Day. And then they agreed to be in a readiness accordingly. The next Day the Prisoner with some others met at Mr. Porter's, where they were preparing to go out and attack the King, and they had several Discourses about the Ways and Means of doing it; and particularly Capt. Porter at that time said, that he had a very good Gun that held about 6 or 8 Bullets, and that Mr. Pendergrafs was to have, who was to attack the Coach, and shoot into the Coach : Mr. Cranburne was there present at that time, and Mr. Cranburne was employ'd particularly by Capt. Porter to carry a List that Porter writ of the Names of several Men that were to act in it under him, and this he was to carry to Cbernock. Porter writ it and gave it him, and he carry'd it with Directions to bring it back with the List of the Names of Mr. Cbernock's Men. Cranburne did accordingly at that time carry the List of the Names to Capt. Cbernock, and brought it back with an additional List, from Capt. Cbernock, of his Men.

At that time you will hear farther, when Cranburne brought the List, he brought an Account that he heard the King did certainly go abroad : for Mr. Cbernock had Intelligence so from Chambers, who lay at Kensington to get Intelligence : At which there was very great rejoycing among all that were present at that time, hoping they should have an Opportunity to put this execrable Design in Execution ; and so they prepar'd all of 'em to go out. There were several Inns in Turnam Green and Brentford, and thereabouts, and they were to be plac'd, two or three in an Inn, that they might be ready to get together when time should serve. It happen'd the King did not go abroad that Day neither, there being some Discovery of this Design, and so they did disperse themselves, as apprehending it was discover'd.

Gentlemen, it will appear by several Witnesses, that the Prisoner at the Bar was engag'd in this Horrid Treasonable Design, and was to have acted a Part in it. We will call our Witnesses that will make the Particulars out to you, and we do not question but you'll do what is right. First, call Capt. Porter, (who was sworn.)

Mr. Sol. Gen. Pray, if you please, Capt. Porter, give the Court and the Jury an Account what you know of this wicked intended Assassination, and what share the Prisoner at the Bar had in it.

Capt. Porter. My Lord, before this wicked Assassination was on foot, the Prisoner at the Bar, Mr. Cranburne, was employ'd by me to buy Arms. I us'd to give him Money to go to the Brokers to buy Arms at second-hand, and he brought a Sword-Cutler to me, of whom I bought about 20 Swords. And when Sir George Barclay came into England, and this business was resolv'd upon, I acquainted him with the Design, and promis'd to mount him. He never was at any of the Meetings with Capt. Cbernock, Sir George Barclay, or Sir William Parkyns ; but he went to look for a Horse, and was ready both Saturdays to go along with me. On Saturday the 22d I sent him with a Message to Sir William Parkyns, for the Note for the two Horses, which he had promised me to furnish me with, out of his five that he was to furnish; he came back again, and told me that there was

A Messenger



a Messenger came and said that the King did go out, and he knew where to have the two Horses; that Mr. Charnock was afraid we should not have the full number of Men, and desired me to send him the Names of my Men; I did write a List of the Names of my Men, and I went afterwards to the *Blew-Potts* in *Spring-Garden*, whither he was to come to me; he did so, and he brought back the List of my Men, with the List of Mr. Charnock's Men written underneath it, and at the same time News was brought that the King did not go abroad that day.

L. C. J. *Holt*. You say, that before the Assassination was set on foot, you employed him to buy Arms and Horses.

Capt. *Porter*. My Lord, I acquainted him with it the Friday before the first Saturday.

L. C. J. *Holt*. You said before the Assassination you employed him to buy Arms: When was that?

Capt. *Porter*. I said before the Assassination was on foot I employed him to buy Arms. I told him I was to be a Captain in Colonel *Parker's* Regiment, and promised to make him my Quarter-Master.

L. C. J. *Holt*. How long a go was this? was it a week before the Assassination was on foot?

Capt. *Porter*. He has known of my being a Captain in Colonel *Parker's* Regiment this two years.

Mr. *Att. Gen.* I do doubt my Lord, he does not distinguish the times when he bought the Arms, and when the Assassination was.

L. C. J. *Holt*. Yes, yes, he does now; I misapprehended him at first, and thought he said he had employed him to buy Arms a week before the Assassination was on foot; but he says it was a longer time.

Mr. *Att. Gen.* I desire my Lord, he may be askt what time he bought Arms before this Assassination: When was the last time he bought Arms?

Capt. *Porter*. It was several Month before the Assassination.

Mr. *Att. Gen.* Was it within a year before it.

Capt. *Porter*. Yes I believe it was within a year. I gave him several times Money for that purpose, in all above Ten pounds, and he told me one with another, he had bought ten Case of Pistols, and kept them in the House till there were occasion.

Mr. *Att. Gen.* How long ago is it?

Capt. *Porter*. I believe about a year; within a year.

Mr. *Att. Gen.* When did you first acquaint him with the Assassination?

Capt. *Porter*. Presently after Sir *George Barclay* acquainted me with it, I sent to him, to desire him to get the Pistols clean and ready.

Mr. *Att. Gen.* Did you tell him of the Design?

Capt. *Porter*. I told him there was a Design on foot, and I would tell him more when I saw him next; and I desir'd him to get the Swords from the Sword-Cutlers, and the Pistols clean and ready. And I met him afterwards, and told him of the Design, and that we intended to do it on Saturday the fifteenth, and he engaged to be ready and make one. On the Friday before the twenty second he went with me to the Cock-pit, and there we met with one Mr. *Gun*, and I askt him if he knew where any good Hackney-Horses might be had? He said he believed he did; and I sent *Cranburn* with him, and he came back, and told me he had found two or three out in *Bloomsbury*.

L. C. J. *Holt*. Look ye Capt. *Porter*, you must not speak so fast, it is impossible to understand so much matter as you deliver without distinguishing of times. You said, that some long time before the Assassination was on foot you sent him to buy Arms, for what purpose were those Arms?

Mr. *Att. Gen.* My Lord, he has told you——

L. C. J. *Holt*. Pray let me hear it from him again.

Capt. *Porter*. I say, My Lord, he knew of my being a Captain in Colonel *Parker's* Regiment this two years.

L. C. J. *Holt*. But what were those Arms for that he bought?

Capt. *Porter*. To be ready against King *James* landed, which was designed several times.

**L. C. J. Holt.** Why now you make the matter clear to me.

**Mr. At. Gen.** My Lord, that is not the thing we go upon, that is but introductory to the business that we are now a Trying. Therefore we desire to know of him: Captain Porter, when did you first acquaint Cranburn of the Assassination of the King?

**Capt. Porter.** As soon as Sir George Barclay acquainted me with it, and desired me to get what Men I could to effect it, I sent for Cranburn to my Lodgings in *Norfolk-street*, and he came to me one Morning; and I told him there was a design on foot, and I would tell him more of it afterwards.

**Mr. Sol. Gen.** When was it that Sir George Barclay acquainted you with it?

**Capt. Porter.** About the latter end of *January*.

**Mr. At. Gen.** And what said he to it when you acquainted him with it?

**Capt. Porter.** He did agree to go with me, and I promised to furnish him with Horses and Arms; and on Friday before the fifteenth I sent him with three Case of Pistols to Sir William Parkins, to furnish the three Men he was to mount with his own Horses.

**L. C. J. Holt.** Who was to have those three Case of Pistols?

**Capt. Porter.** Sir William Parkins was, and he carried them to Sir William Parkins's.

**Mr. At. Gen.** How long was this, do you say, before the Assassination was to have been?

**Capt. Porter.** It was Friday before the fifteenth.

**Mr. At. Gen.** That was before the first time that it was to have been done.

**Capt. Porter.** Yes, and Friday before the last, I sent him to look after the Horses that Gunn said he believed he could help me to, and he came to me to the Sun-Tavern in the Strand, and told me he and Jeffrey Gunn had found three Horses in *Bloomsbury*, and I came out of the Room where I was with Sir George Barclay and others, and there was Kendrick and Keys, and Cranburn, and I told them we were resolved to put it in execution the next day.

**Mr. At. Gen.** Well pray what discourse had you with him the next day?

**Capt. Porter.** The next day, the 22d. he came to my Lodging at *Maiden-Lane*, and I sent him to Sir William Parkins for a Note for the two Horses, that I was to mount of his: He came back and told me he knew where to have them, and that Captain Chernock was afraid we should not have our Compliment of Men, and desired me to send him an account what Men I could bring, which I did by Mr. Cranburn, and being to go to the *Blew-posts*, Ordered him to bring it to me thither, and he did bring it back to me to the *Blew-posts* with Captain Chernock's Lift underneath.

**Mr. Sol. Gen.** Pray Captain Porter, was there any body present when you sent the Lift, and the Prisoner brought it back to you?

**Capt. Porter.** Yes there was Mr. La Rue, and Captain Pendergrafs, and Mr. King, I know of none else.

**Mr. At. Gen.** Pray do you remember what Healths were drank after you heard the King was not to go abroad?

**Capt. Porter.** I don't Remember what Healths were drank that day particularly, but whether it were Thursday or Friday (I cannot tell particularly the day) We drank a Health to the squeezing of the *Rotten Orange* upon the next Saturday.

**Mr. At. Gen.** Who was present that day when that Health was Drank?

**Capt. Porter.** Mr. Cranburn was there present at that time, and did Drink the Health.

**Mr. Cooper.** Pray Sir did he meet you by appointment on Saturday the 15th, or was it by accident?

**Capt. Porter.** By appointment, as all the rest did, to get ready as all the rest did, to go upon the Design; and so it was both Days.

**Sir B. Shower.** If they have done with Mr. Porter we would ask him a Question or two for the Prisoner: We desire to know when it was that those Arms were bought, that he talks of: For we must acknowledge that Mr. Cranburn heretofore went upon several Messages for Capt. Porter, When was that buying of Arms?

Cap.



Capt. Porter. I tell you I cannot exactly tell the Month.

Mr. Cranburn. Do you remember the Year?

Capt. Porter. I believe it was less than a Year before the Assassination was on Foot.

Mr. Cranburn. If you remember Sir, it was a Month before Col. Parker was put in the Tower.

Capt. Porter. It was several times, I cannot tell the particular times.

Sir B. Shower. My Lord I desire to know when he first Communicated this Design to Mr. Cranburn, and who was by, and where was it?

Capt. Porter. I told you I sent for Mr. Cranburn one Day in the Week before the 15th, and he came to me at my Lodging in *Norfolk-Street*, and I acquainted him that Sir George Barclay was come, and there was such a Design on Foot; and I desired him to get those Pistols that he had of mine ready, and cleaned, that they might be ready for the Execution.

Sir B. Shower. What Day was that?

Capt. Porter. One Day in the Week before the 15th.

Mr. Cranburn. Did you ever name Sir George Barclay to me in your Life?

Capt. Porter. Yes I did, I told you he was come from France.

Mr. Cranburn. Where was that, at Mr. — in *Norfolk-Street*, where I lay?

Mr. Cranburn. Who was by?

Capt. Porter. No body but my self.

Sir B. Shower. Upon what occasion did you meet there?

Capt. Porter. I sent for him to my Lodging.

Sir B. Shower. How long had Sir George Barclay been in Town, before that time?

Capt. Porter. I cannot tell the time when he came to Town.

Sir B. Shower. How long was it after he came to Town before you saw him? Had you seen him a Week or a Fortnight before? Pray recollect your self.

Capt. Porter. I told you that the first time I heard of him, was the latter end of January; Capt. Charnock told me he was come, but I was then Sick of the Gout.

Sir B. Shower. Now then I would desire to know, who was by upon the Friday before the 22th at the *Sun Tavern* in the Strand, when you and Mr. Cranburn were there?

Capt. Porter. I did tell you Sir.

Sir B. Shower. I desire to know, whether there was any body besides Mr. Cranburn, Kendrick, and Keys?

Capt. Porter. Sir, I will tell you all I can remember; I was in one Room with Sir George Barclay, and there was Sir William Parkins, Capt. Charnock, and my self; and afterwards I went into another Room, where there was Kendrick, and Cranburn, and Keys, and Jeffrey Gunn came in afterwards, I remember no body else.

Mr. Phipps. Was not Gunn there when you first came in?

Capt. Porter. To the best of my Remembrance, he came in afterwards.

Sir B. Shower. My Lord, this may be a very material part of our Defence, and therefore we must inquire a little the more into it. Mr. Porter is pleased to say, that he was in a Room with Sir George Barclay, and Charnock, and Sir William Parkins; and he came out into another Room, where was Mr. Cranburn, Kendrick and Keys: and there he says, after he had been there some time, Gunn came in, I desire to know, whether Gunn was there when he first came in?

Capt. Porter. To the best of my Remembrance, he came in afterwards, but I cannot positively tell, for I was in and out several times.

Mr. Phipps. At the time that you Communicated this Design to Mr. Cranburn, what said he to you?

Capt. Porter. When I first Communicated the thing to him, I told him there was a thing on Foot for the Service of King James, and desired him to go along with me.

L. C. J. Holt. What kind of Service did you tell him it was?

Capt.

Capt. Porter. He asked me, what kind of Service it was? I told him Sir George Barclay was come over, and I told the whole Design of the Assassination of the Prince of Orange, that it was intended to take him off, as he came from Richmond from Hunting.

Mr. Phipps. And pray what did Mr. Cranburn say to you?

Capt. Porter. He said he would be ready to go along with me.

Mr. Phipps. You say, you sent by him Three Case of Pistols to Sir William Parkins, at that time did you tell him for what Design those Pistols were?

Capt. Porter. I told him, they were for the 3 Men that Sir William Parkins was to Mount upon 3 of his 5 Horses.

Mr. Cranburn. Did you speak to me to carry those Pistols to Sir William Parkins?

Capt. Porter. I think so, to the best of my Remembrance I ordered you my self to carry them.

Sir B. Shower. Captain Porter, I desire you to recollect your self, and tell us plainly, whether the Design was Communicated to Mr. Cranburn before the 15th.

Capt. Porter. Certainly Sir.

Sir B. Shower. Are you sure of it?

Capt. Porter. Yes Sir, I am sure of it.

Sir B. Shower. I ask you, because you know what has been said upon this Occasion in other Trials.

Cranburn. Where did you write the Note, that you say you sent to Sir William Parkins? Was that Note Sealed or was it not?

Capt. Porter. I did not tell you that I writ a Note.

Cranburn. You Swore that you wrote a Note, and sent it by me to Sir William Parkins for 2 Horses.

Capt. Porter. I said no such thing Sir.

Mr. Sol. Gen. Look you Capt. Porter, let him ask you any Questions, and if they be proper answer them, and let not his affirmations, or mistakes provoke you to be angry.

Capt. Porter. I said, I sent him to Sir William Parkins, for a Note to have the Horses from Mr. Lewis.

Mr. Phipps. Did you send him with a Letter, or was it a Message by word of Mouth?

Capt. Porter. I did send him by word of Mouth, for a Note.

L. C. J. Holt. Pray Gentlemen observe the Evidence, Sir William Parkins was to give a Note for 2 Horses, and Capt. Porter sent Cranburn for the Note.

Mr. Phipps. The Question therefore that I ask, is, Whether he sent a Letter for the Note, or whether by word of Mouth?

Capt. Porter. I sent by word of Mouth.

Mr. Cranburn. Pray will you tell the Court what you said upon the 22th to Mr. Pendergrafs and me, after you came down from the Blew-Pofts leaning upon the Rail.

Capt. Porter. I dont remember a word of it, for I cannot remember every word that I have spoken.

Sir B. Shower. If you can remember one particular, sure you can remember another. If you can't remember this, how came you to remember any part of the Discourse that happened at the Blew-Pofts.

Capt. Porter. Because that was material to this Business, for I had very soon after a particular occasion to recollect it upon the breaking out of the Plot.

Mr. Cranburn. Pray what Hour was it this Saturday the 15th that you Communicated this Design to me?

Capt. Porter. I cannot tell what Hour, but I say you met me at the Blew-Pofts Saturday the 15th.

Mr. Cranburn. You say, you Communicated it to me the 15th.

Mr. At. Gen. He says he Communicated it to you, before the 15th.

Mr. Cranburn. I desire to know where he was the 14th.

Capt. Porter. I say, one Day before the 15th, in that Week I sent for you to come to my Lodgings, and you did come, and there I Communicated it to you.

Mr. Cranburn.

*Cranburn.* Sir. I was not at your Lodgings that Week.

*Mr. Phipps.* What Day of the Week ?

*Capt. Porter.* I cannot be positive whether it was *Thursday*, or *Friday*, or what Day; but one Day in that Week it was.

*Mr. Phipps.* You ought to be positive when it was.

*Capt. Porter.* I do tell you as near as I can.

*Mr. Phipps.* With submission, my Lord, he ought to be positive one way or other.

*L. C. J. Holt.* Nay, I don't see that he ought to be positive to a Day; he may be so if he can.

*Cranburn.* Pray what Day did you say you sent me to Sir *George Barclay* ?

*Capt. Porter.* I do not say that I ever sent you to Sir *George Barclay* ?

*Mr. Phipps.* Can you take upon you to say, That he was at your Lodgings that Week before the 15th. ?

*Capt. Porter.* To the best of my Knowledge it was one Day that Week.

*Mr. Phipps.* To the best of your Knowledge : Are you sure of it ?

*L. C. J. Holt.* Speak as certainly as you can.

*Capt. Porter.* Indeed, I believe so, it was before the 15th. I am sure, I think, it was within Three or Four Days after Sir *George Barclay* had acquainted me with it, I sent to the Prisoner to come to me to my Lodgings, at Mrs. — in *Norfolk-street*, and acquainted him with it.

*L. C. J. Holt.* And when you acquainted him with it, What did you tell him ? What Part was he to act in it ?

*Capt. Porter.* I told him, I would have him go along with me, and that I had set him down for one of my Party, and would provide him Horse and Arms; and he did agree to go along with me.

*Sir B. Shower.* Mr. *Webber*, Pray let me see *Cbernock's* Tryal.

*Mr. Sh. Buckingham.* Why, Sir *Bartolomew*, is the Tryal any Evidence ?

*Sir B. Shower.* Mr. Sheriff, I know what use I can make of it.

*Mr. Sol. Gen.* Will you ask him any more Questions ?

*Sir B. Shower.* No, Sir.

*Mr. Sol. Gen.* Then Swear *M. De la Rue*.

[ which was done.

Pray, Sir, give the Court, and the Jury, an Account what you know of the intended Assassination, and what Share the Prisoner had in it.

*M. De la Rue.* It is too long a Story to tell you all that I know of this Matter; but, if you please, I will tell you what concerns the Prisoner at the Bar. I am heartily sorry that I have occasion to appear against him, as I wou'd be truly against any Body: But since I am here upon my Oath, I must declare the Truth, and nothing but the Truth; and I hope I shall not declare any thing but what is Truth. Upon *Saturday*, the 15th. of *February*, the Day that the Design was to have been put in execution against His Majesty, and all that were in the Coach with him, and against his Guards, I went to Mr. *Cbernock's* Lodgings in *Norfolk-street*, to inform my self, whether they resolved on that Day to go out upon the Design; and I found by Mr. *Cbernock* that they did resolve it, and I stay'd there a while, till such time as Mr. *Chambers* came in; I did not know whence he came then, but, as I was informed afterwards, he came from *Kensington* to Mr. *Cbernock*, and his Boots were dirty; and Mr. *Cbernock* told me he had sent a Messenger to Mr. *Porter*, And, says he, if you will stay a little time, I shall have an Answer. The Messenger came back, and told him, That *Capt. Porter* din'd at the *Blue-Posts* in *Spring-Garden*. I did not go to Dine with him, but went home, where I saw Mr. *King* at my Lodging, who told me, that the King did not go out that Day. I told him, I heard he did not: I found by Mr. *Chambers's* coming back, and that we had no notice from Mr. *Cbernock*, that it was concluded the King did not go out as it was supposed he shou'd have gone. When I had din'd at my Lodging, I went to the *Blue-Posts* in *Spring-Garden*, to

G

Mr. *Porter*.



Mr. Porter, and there were Four, or Five, or Six People with him; there was one Mr. *Sherburn*, and Mr. *Kendrick*, and Two People that I never saw before, and another Person, but I can't tell now who he was. When we had been there a little while, comes in this unfortunate Man at the Bar, Mr. *Cranburn*; I don't know where he had been; but by his coming in so late, I suppose he had not din'd, and he ordered the Drawer to get him some Costelets. This is all that I can say as to that Day: I had seen Captain Porter twice or thrice between that, and the 22d. and he desired me to be at home on Friday Night, between Eight and Nine, and he would send to me: He did send, and I was from home. But when I came, I was informed his Servant had been to speak with me; and in the Morning, about Eight or Nine a Clock, Saturday the 22d. he sent his Servant to me to tell me his Master would speak with me at his Lodgings. I went to his Lodgings, and he then lay in *Maiden-Lane*, at one *Brown's* a Surgeon's: When I came in, he was in Bed; and he told me in French, *Tout est prêt*. All Parties are ready. I understood all along that there were Three Parties to be engag'd; one to attack the King's Coach, and the Two others the Guards; Sir *George Barclay* was to head the first, and Porter and *Rookwood*, the rest. Mr. Porter arose and dress'd himself, and in came Mr. *Cranburn*; and Mr. Porter went out to him into the Dining-Room, and what he said I can't tell: But soon after came in *Pendergrafs*, Mr. *Key*, and Mr. *King*, and then he takes Pen, Ink, and Paper.

Sir B. Shower. Who took that?

M. De la Rue. Capt. Porter took Pen, Ink, and Paper, and writes down a List of his Party, and puts me down first. Mr. *Pendergrafs* ask'd me if I was the Captain, and I made him some Answer, but what in particular I cannot tell; I think I told him, I knew of the thing before the most did: But I can remember particularly that List was given to Mr. *Cranburn*, to carry to Mr. *Cbernock*; upon what Account it was, I cannot tell; but I concluded, that Mr. *Cbernock* was to be acquainted with those Persons that Porter was sure off: And Mr. Porter at that time told me that he was disappointed of some People, and desired me to get him some other Men in their rooms; and he sent particularly to one that Mr. *King* propos'd; and I did go, and brought him to the *Blue-Posts*, where Captain Porter told me he was to Dine; and the Gentleman I went to, told me he would meet me at the *Blue-Posts* in *Spring-Garden*. When I came back to Mr. Porter's Lodgings, Mr. Porter, and Mr. *Pendergrafs*, and Mr. *Oldfield*, and I, went in a Coach to the *Blue-Posts* in *Spring-Garden*; and when we had been there a little while, Mr. *Cranburn* came back to give an Account of the Errand Mr. Porter had sent him upon, and he brings this List:

Mr. Att. Gen. Who brought it?

M. De la Rue. Mr. *Cranburn*?

Cranburn. Whether did I bring it?

M. De la Rue. To the *Blue-Posts* in *Spring-Garden*.

L. C. J. Holt. You must not ask any Questions, till they have done with him: But, M. De la Rue, let me ask you what Day was this?

M. De la Rue. This was Saturday, the 22d. of February; and he told Mr. Porter there was a List of Mr. *Cbernock's* Men at the bottom of that List, and I took the List in my Hand, and there was Mr. *Cbernock's* List of Six or Seven, or thereabouts, of his Party, and at the bottom of it was R. C. I think, for Robert *Cbernock*. Mr. Porter takes Mr. *Cranburn* from the Company into another Room, and I went after them, and he told Captain Porter, in my hearing, that the King did not go out that Day. There is one thing I forgot, which now I recollect, and I am upon my Oath to tell the Truth, and the whole Truth: When I was at Mr. Porter's Lodging, he told me the King was to go out; and that Mr. *Chamberlain*, the Orderly Man, had sent word, That the King resolv'd to go out between Ten and Eleven.

L. C. J. Holt. Who said so?

M. De la Rue.



*M. De la Rue.* Mr. Cranburn told me so at Mr. Porter's Lodgings, I say I had forgot it, but it occurs to my memory now, that he told me there before we went to the *Blue-Posts*, that the King did go out that Day between 10 and 11; for Mr. Chambers the Orderly man had been with Mr. Chernock, or Sir William Parkyns, to let them know so much. And afterwards when he came back with the List of Captain Porter's Men, to Captain Porter at the *Blue-Posts* in the *Spring-Garden*; there was at the foot of that List, a List of Mr. Chernock's men in another hand, I suppose writ by himself, but that I cannot swear whose hand it was, and Mr. Porter took him into another Room, and then Cranburn told him the King did not go out, and I believe it was then between 11 and 12 a Clock, and he also told Mr. Porter, that Mr. Chernock was apprehensive the thing was Discovered, and therefore desired him to have a care of himself, for he himself was resolv'd not to lie at home that Night; I think my Lord, Mr. Porter did send back Mr. Cranburn to Mr. Chernock, I cannot be positive whether he did or not, but I believe he did, because I am sure Mr. Cranburn did tell Mr. Porter, Sir George Burdett would speak with him, and Mr. Porter made answer, Why should he desire me to go to him, when he knows I am under some ill Circumstances, and he can better come to me? and I believe Mr. Porter did send Mr. Cranburn once again to Mr. Chernock.

*L. C. J. Holt.* Well, pray do not say any thing of any Matter but what you can be positive in.

*M. De la Rue.* But Mr. Porter did not go to Mr. Chernock, nor did Mr. Chernock come to him, therefore they stay'd there and din'd; and after Dinner, or a little before Dinner, Keyes the Trumpeter, came up, and told us that my Lord of Oxford's Regiment of the Guards was return'd from *Richmond*, foaming: Keyes went down stairs again to learn Intelligence as I thought, and came up and told us he saw the King's Coaches newly return'd to the *Mews*, and Mr. Cranburn was by all the time; I think this was before Dinner, and then we went to Dinner.

*L. C. J. Holt.* I tell you again, don't speak any thing that is material but what you can be positive in.

*M. De la Rue.* I am positive as to the thing, and that it was the 22th. of *February*, but I cannot be positive as to all the Circumstances: After Dinner there was the usual Healths the Jacobite Healths to King *James* and the Prince of *Wales*, and the Restoration, and the like; and after that, I think it was Mr. Porter took an Orange in his hand and squeez'd it, I am sure and in the Company did, and drank something to the Rotten Orange, I cannot very well remember just now what it was; but I would be cautious of saying any thing but what is Truth; but if your Lordship will give me leave to recollect my self, I will tell you what it was — Oh! it was to the squeezing of the Rotten Orange, and the Health went round, and Mr. Cranburn was in the Company, and drank the Health, but being disappointed and frustrated of the Design by the King's not going abroad that Day, and Mr. Porter being caution'd by Mr. Chernock to take care of himself, and being told that Mr. Chernock would not lye at home that Night, and the Guards returning in that manner, they were all apprehensive that the Thing had taken Air, and the design of Assassinating the King was Discovered, and therefore Mr. Porter concluded of going out of Town; several Healths were drunk round, and I think about Two a Clock he went out of Town, and then the Company broke up. This is what I can say as to the Prisoner, and I hope I have said nothing but what is Truth.

*Mr. Sol. Gen.* Then, my Lord, we desire to know whether they will ask him any Questions?

*Mr. Phipps.* At the time you say this List was given by Captain Porter, to Mr. Cranburn; Did Mr. Porter declare to what purpose the List was sent?

*Mr. De la Rue.*

*M. De la Rue.* No, Sir, not a word of any such thing. *Mr. King* was by, and *Mr. Pendergrast* was by, and I think *Mr. Keyes* was by, and he writ a List of his Party, putting me down First, and *Mr. Pendergrast* said to me, You are Captain, and he gave it to *Mr. Cranburn* to carry it to *Mr. Chernock*; what the particular Message was, I cannot be positive: Indeed I don't very well remember the Message, but the List was carry'd to *Mr. Chernock*, and to the best of my Memory it was to give *Mr. Chernock* an Account what men he was sure of; for *Mr. Porter* told me of several disappointments he had had, of Persons that had promis'd him and fail'd.

*Mr. Phipps.* Can you remember what *Mr. Cranburn* said upon that?

*M. De la Rue.* No, I do not.

*Cranburn.* What Message was that you say, I brought from *Sir George Barclay*?

*M. De la Rue.* I do not say that you brought any Message from *Sir George Barclay*.

*Cranburn.* You said that I brought a Message that *Sir George Barclay* would see him.

*M. De la Rue.* I do not say so; but I say that you told *Mr. Porter* that *Mr. Chernock* sent you with a Message to let him know that *Sir George Barclay* was desirous to see *Mr. Porter*, to confer about taking care of themselves.

*Cranburn.* Did you hear me name *Sir George Barclay's* Name?

*M. De la Rue.* Yes, I say you told *Mr. Porter* that *Mr. Chernock* bid you caution him to take care of himself, and that he would go that way, for *Sir George Barclay*, and he, desired to see him; and *Mr. Porter* said it was an unreasonable thing for *Mr. Chernock* to desire it, because they knew he was under Circumstances that it was not proper for him to go, and he wondered rather they would not come to him.

*L. C. J. Holt.* What time a Day was this?

*M. De la Rue.* It was about Twelve a Clock, I think.

*L. C. J. Holt.* Was it after such time as the News was brought that the King did not go abroad that Day?

*M. De la Rue.* Yes, my Lord, it was after that time.

*Mr. Phipps.* Were you with *Sir George Barclay* when he was here in *England*? Did you see him here?

*M. De la Rue.* I did not see him on this side of the Water. I knew him abroad, and a great many other Unfortunate Persons, that were concern'd in this Affair; I knew some of them here, and that they were concern'd in the Design, but I did not converse with many, indeed with but a very few about it; for to shew that I was not a man that design'd to trappan or insnare any man, I did never exchange Two Words about this Matter with any Persons that I knew were concern'd in it, but *Sir William Parkyns*, (and that but in a small measure) and *Mr. Chernock*, and *Mr. Porter*, and *Mr. King*, and *Col. Parker*, except what pass'd upon the 22th. between *Mr. Porter*, and *Mr. Chernock*, when *Mr. Porter* sent *Mr. Cranburn* to *Mr. Chernock*. *Mr. Cranburn* was one who *Mr. Porter* called his Quarter-Master: I know this Gentleman was commonly depending upon *Mr. Porter*, but I think I never was much in his Company, I did not know what Design he had upon him, but I was told by *Mr. Porter*, that he Intended to make him his Quarter-Master, and I understood *Mr. Porter* was to have a Troop of Horse in *Col. Parker's* Regiment.

*Mr. Phipps.* You say you knew a great many of them that were concern'd, but you discours'd and convers'd but with a few?

*M. De la Rue.* I do so, Sir.

*Mr. Phipps.* How do you know that they were concern'd, when you did not discourse with them?

*M. De la Rue.* By Information from *Mr. Chernock*, and *Mr. Porter*.

*Mr. Phipps.* Do you know any thing more of *Mr. Cranburn*, than the List, and what you have said already?

*M. De la Rue.*

*M. De la Rue.* I give you an Account of all that I do know.

*L. C. J. Holt.* Answer that particular Question. Do you know nothing more than what you have said?

*M. De la Rue.* No, my Lord, I do not remember nor know any more as to Mr. *Cranburn* than what I have declared, and I am sorry I had Occasion to declare so much.

*Mr. Att. Gen.* Then call Mr. *Pendergrafs*.

(who was sworn.)

*Mr. Sol. Gen.* Pray will you give my Lord and the Jury an account of what you know of the Intended Assassination, and how far Mr. *Cranburn*, the Prisoner at the Bar, was concerned in it.

*Capt. Pendergrafs.* My Lord, the 13th of February last, I came out of Hampshire, Mr. *Porter* sent for me to come to Town, and I met him that day at the *Blue-Posts* in *Spring Garden*, and there he told me of the Assassination that was to be done on Saturday following: The next day we dined at the *Rose-Tavern*, where the Prisoner dined with us, and we talk'd of the Business, that was Friday the 14th. and we were to be in readiness the next day to assassinate the King, as he was coming from *Richmond*; but some Company coming in afterwards; we left off the Discourse and talk'd no more that Night. The next day that we were to do the Business, we met at the *Blue-Posts* in *Spring Garden*, and finding the King did not go abroad that Saturday, we dined there at the *Blue-Posts*, and talk'd over again of Assassinating the King, and the Prisoner was by at the same time, they were all mightily concerned the King did not go that Saturday; but when we had dined there, we had no further Discourse about the Assassination that day, but every body was to prepare against the next Saturday.

*L. C. J. Holt.* Was that agreed upon then?

*Capt. Pendergrafs.* Yes it was, by all the Company; so we parted that day. Some time the next Week I met Mr. *Porter*, and Mr. *Porter* ask'd me if I had a Horseman's Sword; I told him no: Says he to Mr. *Cranburn*, let Captain *Pendergrafs* have one of the Horsemens Swords that you have got. Says Mr. *Cranburn* to me, if you will come to my House you shall make choice of one your self, for I have several at home. Said I, Mr. *Cranburn*, I cannot go that way, but I'll take one of your Choosing, if so be you'll leave it at my Lodgings: He said he would do it, and did; he left it at my Lodgings in *Suffolk-Street*, which Sword I have still. The day following I met him, and he ask'd me if I had receiv'd the Sword; I said I had it; and he said, it was very well. After this I did not see Mr. *Cranburn* till Saturday the 22d. at which time I came to Mr. *Porter's* Lodgings between Nine and Ten a Clock in the Morning, and the Prisoner at the Bar was there, and I heard Mr. *Porter* give him a Message to go to Sir *William Parkyns* for some Horses, I know not how many. The Prisoner went, and in some time after, came back again, and brought an account that the King went out that Saturday the 22d. to *Richmond*; so every body was to get ready: And Mr. *Cranburn* said; that Mr. *Cbernock* desired that Mr. *Porter* would send a List of his Men; upon which Mr. *Porter* wrote a List of his Men, and gave it to the Prisoner to carry it to Mr. *Cbernock*, and bid him meet him at the *Blue-Posts*; and Mr. *Porter* and *M. De la Rue* and I took Coach, and went down to *Spring-Garden*, and when we came to the *Blue-Posts*, there were some Persons that I think *M. De la Rue* had appointed to come there; the Prisoner comes thither, and brought the List back, with a List of Mr. *Cbernock's* Men underneath. I know not who the Men were, for I saw it only on the one side of the Table, in Mr. *Porter's* Hand; at the same time the Prisoner brought an account, that the King did not go abroad that day, and presently after we had the same account from other Hands; and Captain *Porter* and I went out of Town, and we heard no more of it.

*L. C. J. Holt.* Are you sure that he did agree to this matter before the 15th?

H

*Capt. Pender-*



*Capt. Pendergrafs.* Yes, I am sure of it, he agreed to it *Friday the 14th.* at the *Rose Tavern* in *Coven-Garden*.

*L. C. J. Holt.* On the *15th.* it seems they were disappointed; are you sure there was an Agreement to pursue it the *22d.*?

*Capt. Pendergrafs.* Yes, I am sure there was, my Lord.

*L. C. J. Holt.* Was the Prisoner there?

*Capt. Pendergrafs.* Yes, my Lord, I am sure that the Prisoner at the Bar was there?

*Cranburn.* Pray, Mr. Pendergrafs, was there any Discourse about this thing when I was there?

*Capt. Pendergrafs.* Yes, Mr. Cranburn, you cannot but remember there was.

*Cranburn.* What hour did I come there, pray Sir?

*Capt. Pendergrafs.* Truly, I cannot be positive to an Hour, but you was there while the Discourse was.

*Cranburn.* Whether did I stay there all the while, and who was in the Company?

*Capt. Pendergrafs.* All the Company broke up about six a Clock, there was Mr. King, Captain Porter, Mr. Kendrick, Mr. Cranburn, Mr. Keyes, and my self.

*Cranburn.* Was Kendrick there when I was there?

*Capt. Pendergrafs.* Yes, I am sure of it, I will do you all the Justice in the world that I can.

*Sir B. Shower.* You say, Sir, he did agree upon the *14th.* to this Design, pray what Words did he use?

*Capt. Pendergrafs.* He did agree, that we should attack the King the next day.

*Sir B. Shower.* Pray Sir, if you can, recollect your self; what did the Prisoner say, or whether you took him to agree by being silent?

*Capt. Pendergrafs.* He said he hop'd we should execute our Business the next Day.

*L. C. J. Holt.* What day was that?

*Capt. Pendergrafs.* That was the *14th.* of *February*, and the same Night I gave account of the matter to my Lord *Portland*.

*Mr. Phipps.* Did he agree to be one in the Execution of the Design?

*Capt. Pendergrafs.* Yes, he did; he discoursed the matter to me himself.

*Mr. Att. Gen.* My Lord, we have done with our Evidence.

*L. C. J. Holt.* VVell, then what say you to it for the Prisoner?

*Sir B. Shower.* My Lord, what we have to say on behalf of the Prisoner in this Respect is this, here are but three VVitnesſes produced, and as to one of them, *De la Rue*, there is no Evidence that he gives Your Lordships and the Jury, that affects this matter, but only that there was a List given by Captain Porter, and carried by the Prisoner to Mr. *Chenock*, and so brought back again. But he does not recollect, nor swear to any Message that was sent from Porter by the Prisoner to Mr. *Chenock*: Now, my Lord, the bare carrying of a Note of Names will be no Evidence of Treason. *M. De la Rue* does not swear to any Privy of the Prisoner, what the List was for, nor to the Delivery of the List, which is the Overt Act in the Indictment, nor upon what account this List was written, or sent, or brought back again, or any VVord that proceeded from Captain Porter to him upon giving the List, or any VVord when it was brought back again. So that as to *De la Rue's* Testimony, we must submit it to the Memories and Recollection of your Lordship and the Jury, we think he only proves a Plot in general, of which there is no peradventure, every Body is satisfied, that there was such a horrible Conspiracy: those that have been condemned and executed for it, have own'd it, and so it can never be doubted, but he does not say any thing to affect the Prisoner at the Bar; for as to the drinking of Healths, and being present when those Healths were drank, tho' it be an

Evidence

Evidence of Disaffection to the Government, or too much good Manners and Complaisance to the Company a Man is in, yet that Disaffection, or Evil Temper, or Complaisance, we hope are no Evidences of Treason. It is plain the Prisoner did depend very much upon Captain Porter; he was in truth his Servant to go of his Errands, and expected an Office from him, God knows when; but it does not appear by any particular Action, that he did any thing that can be Treason, upon *M. De la Rue's* Evidence. Then as to what *Mr. Pendergrafs* says, I must confess his Evidence comes home: For he says there was a Design of the Assassination, and some Agreement of the Prisoner to it; but I must beg your Lordships Favour to observe, upon *Mr. Pendergrafs's* Evidence, if that stand alone, it will be but one Witness, and then we are safe by the Purview of this Act of Parliament.

*L. C. J. Holt.* Ay, and by the Law, before the making of that Act.

*Sir B. Shower.* Then, as to Captain Porter, I must beg leave to say, If our Witnesses are come that were absent at the other Tryal, and they prove what is in my Instructions, it will be very much Questionable, whether there be any Credibility due to his Testimony: Then if you take off his Testimony, there is only the Evidence of *Mr. Pendergrafs*; and if he be to be believed, to which I have nothing to say at present, in the Case of a Man's Life, upon an Indictment of Treason, where the Law requires two credible Witnesses, his single Testimony is not sufficient to convict the Prisoner. We beg leave to call our Witnesses, and then we shall leave it to your Lordship, and the Jury.

*Mr. Phipps.* As to the particular Overt-Act laid in the Indictment, the carrying about the List, only *M. De la Rue* speaks to it, and *Sir Bartholomew Shower* has given it an Answer, and I shall not repeat it.

*L. C. J. Holt.* Look ye, for that, if any one Overt-Act is prov'd by Two Witnesses, it's well enough.

*Mr. Sol. Gen.* Besides, they mistake, my Lord, extremely; for Captain Porter, and *Mr. Pendergrafs*, speak both of them to that particular, as to the List.

*Sir B. Shower.* We do not deny it; the Question is, Whether you have Two Credible Witnesses?

*Cranburn.* Pray, *Mr. Pendergrafs*, do you remember what Captain Porter said to you, and I, when we came down to the *Blue-Posts*, leading from the Rail?

*Capt. Pendergrafs.* Indeed, Sir, I do not.

*Cranburn.* I would have you recollect your self; as we stood against the Rails in *Spring-Garden*, when we came down from the *Blue-Posts*, after the Design miscarry'd, *Mr. Porter* said, *Mr. Charnock*, and they, might thank themselves if it were discovered; For, says he, I never communicated a Word of this thing to any of my Party.

*Capt. Pendergrafs.* Indeed I don't remember a Word of it, Sir.

*Mr. Phipps.* My Lord, we have one piece of Evidence to offer against the Testimony of Captain Porter: He says, That he sent *Cranburn* with *Gunn* from the Cock-pit to see for Hackney-Horses, and that *Cranburn* came to him to the *Swan Tavern*, and there they had some Discourse about executing the Design the next Day; and being ask'd who was by, when he communicated the Design to *Cranburn*, and particularly, Whether *Mr. Gunn* was by? he says, he came in afterwards, but was not there at the time of the Communication about the Design. Now we shall prove that *Gunn* came in with the Prisoner, and was with him all the time, and there was no such Discourse happen'd.

*Sir B. Shower.* Call *Geoffrey Gunn*, and *Mary Gerrard*. [They appeared.] Your Lordship will observe, what Captain Porter swore, That he went in to the Room to *Cranburn*, and *Gunn* was not there: Now, if we falsifie him in that Particular, we shall submit to your Lordship how far he is to be believed in the rest.

*Mr. Att. Gen.*

*Mr. Att. Gen. Pray, Sir Bartholomew, ask your Witnesses what you will, but make no Descants upon their Evidence till you have heard them.*

*[ Then the Two Witnesses were Sworn.*

*L. C. J. Holt.* Well look ye, you are both upon your Oaths, Consider what you say, speak the Truth, and tell all that you know, and nothing but the Truth. Which do you begin with?

*Mr. Phipps.* *Jeffery Gunn, Pray, Mr. Gunn, did you go to the Sun Tavern at any time with Mr. Cranburn?*

*Gunn.* Yes, I did.

*Mr. Phipps.* What day of the Month was it?

*Gunn.* I cannot tell positively the Day, it was of a Friday.

*Sir B. Shower.* Was it of a Friday, in February, or January?

*Gunn.* It was in February.

*Mr. Phipps.* Was it before the Plot broke out?

*Gunn.* Yes, It was.

*Mr. Phipps.* How long was it before the Plot broke out?

*Gunn.* I cannot tell that, truly.

*Mr. Phipps.* Whence did you go?

*Gunn.* I was at the Cock-pit, and I went from thence to the Sun Tavern.

*Sir B. Shower.* Who did you meet there?

*Gunn.* I saw Captain Porter there.

*Sir B. Shower.* What Room were you in?

*Gunn.* We went into a Room next the street.

*Sir B. Shower.* Who was there with you?

*Gunn.* There was Mr. Cranburn, and I, and Mr. Keyes.

*Sir B. Shower.* How long was it before Mr. Porter came in to you?

*Gunn.* He came in about Half a Quarter of an Hour after I was there.

*Sir B. Shower.* Were you there from the beginning till Mr. Cranburn went away.

*Gunn.* Mr. Cranburn, and I, went from the Cock-pit together.

*Sir B. Shower.* How long did you stay there?

*Gunn.* I was there about an Hour and a Half.

*Sir B. Shower.* Were you out of the Room at all in that time?

*Gunn.* Yes, I was out of the Room once.

*Sir B. Shower.* How long were you out of the Room?

*Gunn.* I went home to my Lodging.

*Sir B. Shower.* Were you ever with Mr. Cranburn at the Sun Tavern at any time besides this?

*Gunn.* Never in my Life.

*Sir B. Shower.* Who did you leave with him when you went out?

*Gunn.* Capt. Porter, and Mr. Keyes, as I remember.

*Sir B. Shower.* Were you there before Capt. Porter came to him?

*Gunn.* I was with Mr. Cranburn, and Capt. Porter came in about a Quarter of an Hour after, we came from the Cock-pit together.

*Sir B. Shower.* Pray recollect your self, and tell us upon your Oath, were you there when Capt. Porter came in?

*Gunn.* Yes, I think I was there when Capt. Porter came in.

*Sir B. Shower.* Did you go and leave him there?

*Gunn.* We went all out together. I was there about an Hour and half.

*L. C. J. Holt.* Nay, but you said you were absent some time.

*Gunn.* I went home, and came back again.

*Sir B. Shower.* When you went home, did you leave Mr. Cranburn behind you?

*Gunn.* Yes, I think so.

*Mr. Phipps.* Did you leave Capt. Porter with him?

*Gunn.* I think Capt. Porter was with him then.

*Mr. Phipps.* But upon your Oath, was you in Company with Mr. Cranburn at the Sun Tavern, when Capt. Porter came first in?

*Gunn.*



*Gunn.* Captain *Porter* went in and out several times.

*Sir B. Shower.* Did you see Capt. *Porter* before you went to your own House :

*Gunn.* Yes sure.

*Mr. Phipps.* Then it cannot be true what Mr. *Porter* says, that *Gunn* did not come in till afterwards.

*Mr. Att. Gen.* Now Mr. *Gunn* I would ask you a Question or two first, Were you there all the while that Mr. *Cranburn* was there, or did you go home ?

*Gunn.* I went home.

*Mr. Att. Gen.* Did you come back again ?

*Gunn.* Yes, I came home and eat some Victuals.

*Mr. Att. Gen.* How long were you absent ?

*Gunn.* I came back in half a quarter of an hour.

*Mr. Att. Gen.* How far is it to your House ? *Gunn.* 'Tis not above 100 yards.

*Sir B. Shower.* Did Mr. *Porter* come into you before you went home, when you first came in with *Cranburn* ?

*Gunn.* He came in after we were in the Room.

*Mr. Phipps.* Capt. *Porter* said, when he came into the Room *Gunn* was not there.

*L. C. J. Holt.* He did not say positively, but as he remembred ; now I would ask you a Question or two.

*Sir B. Shower.* Pray my Lord, our Inference from this Evidence is thus ; Capt. *Porter* says, that upon *Friday* the 21th. of *February* he was with *Cranburn* at the *Sun Tavern*, and out of one Room into another he came to Mr. *Cranburn*, and talk'd with him of this Design, and after that *Gunn* came in to the Room, after the Communication was over : Now this man swears he went from the Cock-pit with Mr. *Cranburn*, he was with him in the Room at first when Capt. *Porter* came in ; some time afterwards he went to his own House, and left Captain *Porter* with Mr. *Cranburn*, and came back again, and they came away together : Now we say, these two are inconsistent ; for Capt. *Porter* swears that *Gunn* was not there till after the Communication was over. *L. C. J. Holt.* As he remembers.

*Mr. Phipps.* Nay, I think he was positive he came in afterwards.

*L. C. J. Holt.* As I remember he was not positive, but call Capt. *Porter* again.

*Mr. Phipps.* When you came back from your House, who were in the Room ?

*Gunn.* The same Company as I left, as far as I remember.

*Mr. Mountague.* Was Capt. *Porter* in the Room when you came back ?

*Gunn.* Indeed I can't directly tell, I believe he was.

*L. C. J. Holt.* Pray observe what your Witness says : He says Capt. *Porter* came in and out, and was there several times before he went away.

*Gunn.* Yes my Lord, he was so.

*L. C. J. Holt.* And you were absent some time, but were you there some time before *Porter* came in ? *Gunn.* Yes, I believe I was. [Then Capt. *Porter* came in.]

*Mr. Att. Gen.* Look ye Capt. *Porter*, you see that man there ?

Capt. *Porter.* Yes.

*Mr. Att. Gen.* Pray give an Account of what you know of that mans coming in to you at the *Sun Tavern*.

Capt. *Porter.* I came several times out of Sir *George Barclay's* Room into theirs, and to the best of my Remembrance, Mr. *Cranburn* was there before *Gunn* came in.

*Sir B. Shower.* Do you remember whether the first time that you went out of Sir *George Barclay's* Room to speak with Mr. *Cranburn*, Mr. *Gunn* was there ?

Capt. *Porter.* To the best of my remembrance he was not ; to the best of my remembrance Mr. *Gunn*, I saw Mr. *Cranburn* in the Room before you was there.

*Sir B. Shower.* Did not you order *Gunn* to come with him to the *Sun Tavern* ?

Capt. *Porter.* Yes Sir I did.

*Sir B. Shower.* Can't you tell whether they came together ?

Capt. *Porter.* I was not in the Room when they came in first, but to the best of my remembrance he was not there when I came in the first time.

*L. C. J. Holt.* Now *Gunn*, you hear what Capt. *Porter* says, before you went away to your own House did Mr. *Porter* come into the Room to you ?

*Gunn.* Indeed my Lord I am not positive, I think he did.

*Mr. Att. Gen.* Neither of them is positive, and it is a Circumstance not very material ; for it seems he was absent, and then the Discourse might be.

*L. C. J. Holt.* No, it is not material, but you see upon a strict Examination what it comes to ?

*Sir B. Shower.* They are agreed upon it-I perceive, to be positive on neither side.

*Mr. Phipps.* Mr. *Cranburn* pray ask Mrs. *Gerrard* what you have a mind.

I

*Cranburn.*

*Cranburn.* Pray what do you know of Capt. *Porters* going out in Disguise, and wearing false Hair and Vizards, and going upon the High-way, and such things?

*Gerrard.* I know not what Mr. *Cranburn* means: (at which the People laugh'd.)

*Sir B. Shower.* It is no laughing matter, when a man is upon his Life.

*L. C. J. Holt.* No, no, let him have fair play; Answer the Question.

*Cranburn.* Do you know any thing of your Masters going abroad in Disguises?

*Gerrard.* I do not know any thing of my Masters going upon the High-way.

*L. C. J. Holt.* Did he go out with Vizards, or any such things?

*Gerrard.* I never saw him wear a Vizard or false Beard in my Life, but he had once a Patch on when he was forced to keep out of the way, upon the Account of the Dog Tavern Business in *Drury-Lane*.

*Mr. Phipps.* See if Mr. *Edward Bouchier* is here.

[ He was call'd, but did not appear. ]

*Sir B. Shower.* Call Mrs. *Burton*, ( which was done ) ; but she did not appear.

*Mr. Phipps.* Is *William Hardyman* here ; he was called, but did not appear.

*Sir B. Shower.* Then call *Simon Dawson*, and we have done ( which was done )

*Cryer.* They are all call'd, but they do not appear.

*Sir B. Shower.* My Lord, we must submit it to your Lordships Directions upon the Evidence that has been given, as to the Credibility of these Witnesses, and whether what Capt. *Porter* says, and what *Gunn* says be consistent ; so that you can be satisfied there are Two Lawful Credible Witnesses to prove any Overt-Act.

*L. C. J. Holt.* Yes sure, but I would have you debate it if you believe there be any thing in it. *Sir B. Shower.* I submit it to your Lordships Directions.

*L. C. J. Holt.* The Question is, Whether I should give any Directions at all or no, or whether there be any occasion for it.

*Cranburn.* I declare this openly before this Honourable Court, and so many Noblemen as are here, that Mr. *Porter* never made me acquainted with this Design, till what he swore here. *L. C. J. Holt.* I can't tell, tis sworn by 2 Witnesses.

*Cranburn.* I do declare, tho' Capt. *Pendergrafs* says he does not remember it, that Capt. *Porter* did declare in *Spring Garden* the 22th. when we came out of the Blew Posts by the Rails, if this Design miscarry, says he, Mr. *Charnock* may thank himself, for I never communicated this Secret to any of my Friends.

*L. C. J. Holt.* But hark ye, do you consider what you say, if this Design miscarried : Pray what Design was that ?

*Cranburn.* He never named any thing but the Design, he did not say what it was.

*L. C. J. Holt.* But why were you employ'd to carry a List from Capt. *Porter* to Mr. *Charnock*, and to bring a List back again from him to Capt. *Porter* ?

*Cranburn.* I did carry the Note, but there was nothing mentioned what the List was for.

*L. C. J. Holt.* Then when you were there on *Fryday* the 14th. and there the Design was propos'd to Assassinate the King the next Day, and you engag'd in it.

*Cranburn.* Not a Word of it True my Lord.

*L. C. J. Holt.* Aye but Mr. *Pendergrafs* swears it, and that you were hearty in the Matter, and hop'd you should do your Business the next day.

*Cranburn.* I can't help it if he does swear it.

*L. C. J. Holt.* Then you were at the Meeting at the Sun Tavern the 21th.

*Cranburn.* My Lord you hear what *Gunn* says.

*L. C. J. Holt.* As to that they are neither of them positive, but you did there promise and undertake the Matter, that Capt. *Porter* is positive in, that it was agreed by you all to do it the 22th. and Mr. *Pendergrafs* says, when you were disappointed the 15th. you agreed all to pursue the same Design the Saturday following.

*Cranburn.* My Lord, I did not dine at the Blew Posts that day.

*L. C. J. Holt.* But you were there ; I think indeed Mr. *Pendergrafs* says you came in after Dinner, and had some Stakes.

*Cranburn.* I never heard Directly nor Indirectly of this Design, till what I heard them swear here.

*L. C. J. Holt.* Gentlemen of the Jury, you do understand for what Crime this Prisoner at the Bar is Indicted: It is for High-Treason in designing and compassing the Death of the King, which was to be effected by an Assassination, in the most Barbarous and wicked manner, that any attempt of that nature can possibly be made, being to surprise the King, and murder him in his Coach.

The Question Gentlemen is, whether this Prisoner be Guilty of this Crime or no ; there have been three Witnesses produced that have given evidence against him ; Captain *Porter*, Mr. *De la Rue*, and Mr. *Pendergrafs*, and they do all tell you,

you, that there was such a design on Foot to Assassinate the King, as he came from Hunting at *Richmond*, after he came on this side the Water, in the Lane between *Brentford* and *Turnbam-Green*. There were Diverse Persons Engaged in this Design, which Sir *George Berclay* was come from *France*, to promote and manage Captain *Porter*, as it does appear upon his Evidence, was a Person that was principally Engaged, and at that time was hearty in the Prosecution of it.

As to Mr. *Cranburn*, Cap. *Porter* tells you he was a Man that he had had a long acquaintance with, and had Employed him and designed to imploy as an Officer under him, in case a Revolution happened, which it seems about that time, and some time before it was expected. Cap. *Porter* was to have been a Cap. and I think he designed to promote *Cranburn* to be his Quarter Master; and he sent him to buy Arms; and preparations were made for that business; but that is not the thing that we are now upon, the matter that now properly falls under our Consideration, is this, the coming over of Sir *George Berclay*, the latter end of *January*, or the beginning of *February* last, upon which as it seems Mr *Porter* was Engaged, and having an Interest in this *Cranburn*, and there being Horses to be furnished to attack the King and his Guards about *Turnbam green*. This Man *Cranburn*, was a Person that was engaged to be one of the Horse-Men that were to make the attack, and he tells you that he did Employ him to provide Horses and Swords, and to prepare the Pistols, and that he did Engage in it, and particularly that the design was to be Executed on *Saturday* the 15th of *February*, and that he was then ready to go with Captain *Porter*; but on that *Saturday* the King did not go abroad, whereby the design was Disappointed, for that time: Afterwards there was a meeting at the *Sun Tavern* in the *Strand*, where he met with Sir *George Berclay* and others of them, and there comes to that Tavern Mr. *Cranburn* and others, and they were in an other Room, and Captain *Porter* says he came to them, and did Discourse about pursuing the design the very next Day, which was agreed, and *Cranburn* was ready to go the next Day.

Then he tells you farther, that the next day being *Saturday* the 22. The second time that this Assassination was to have been Executed, upon the desire of Mr. *Charnock*, who was a Person also that was Engaged in this design. Captain *Porter* writes a List of the Men he could bring, and sent it by *Cranburn* to *Charnock*; *Cranburn* carries the List to Mr. *Charnock*, and brings it back again with an Addition of the names of Mr. *Charnock's* Men underneath.

Mr. *De la Rue* is called, and he Swears to that very Circumstance, that Mr. *Cranburn* was sent by Captain *Porter* with a List to Mr. *Charnock*, and brought it back again from Mr. *Charnock*, with an Addition of other Names.

Then Mr. *Pendergraft* tells you, that he was with this Mr. *Cranburn*, the Prisoner at the Bar, the fourteenth of *February*, and there was a discourse of going in pursuance of this design the next day, and the Prisoner agreed to it, which he is positive in: he tells you, that when they were disappointed the 15th, being at the Blew-Posts, they then agreed to pursue it the next *Saturday*; *Cranburn* was one of them that agreed.

Captain *Porter* and *De la Rue* informs you that Healths were drank to the late King, and the late Queen, and the Prince of *Wales*, as they called him, and then at length, as the Concluding health, Captain *Porter* or some of them in the Company, having an Orange in his Hand, squeezed it, and drank a Health to the squeezing of the Rotten Orange, which was Pledged by all, and particularly by Mr. *Cranburn*, as is proved by both Captain *Porter* and *De la Rue*.

So that now Gentlemen I must leave it to you, whether this is not Evidence sufficient to prove this Man Guilty of the Treason; whereof he is Indicted, that is of Designing and Intending the Assassination of the King, and being engaged as a Party to execute this Design, when ever there was an Opportunity

The Council insist upon it, on the behalf of the Prisoner, that what Captain *Porter* says is not Evidence: In the first place they urge that he is not a Man of Credit, for they have mentioned that he used to be Disguised, and wear a Vizard Mask, and go abroad under odd Circumstances, and therefore his Reputation they hope is not good enough to make him a Credible Witness against the Prisoner: Now the Prisoners Witness being produced, says he never knew him go in any Disguise or wear a Vizard Mask, but once he wore a Patch, because he was under some ill Circumstances about a Riot in *Drury-Lane*; every body understands what the meaning of that was, his drinking of Healths at a Riotous assembly, upon the 11th of *June*, and he being under some Prosecution for that, occasioned him to wear that Disguise, but it was not done to Injure any Person, or do any mischief.

But



But then say they he is mistaken in his Evidence, of the meeting at the *Sun-Tavern* the 21<sup>st</sup> of *February*, the day before the last, that this design was to have been executed, for whereas he says, that *Gunn* was not there when he came to them, yet *Gunn* was in the Company at that time, and whereas he Swears positively that they discoursed of going upon the same design to Assassinate the King the next day, as was agreed the *Saturday* before ; *Gunn* heard no such discourse. *Gunn* is called, and he tells you he did come to the *Sun Tavern* at that time, with *Cranburn* and Captain *Porter*, he came into the Room, and he heard no such discourse. They did open it indeed that *Gunn* had been there all the while, and if so then, if there had been such a discourse he must have heard it. *Gunn* has been Examined, and does tell you he was not there all the while, but went out and was absent for sometime, about half a Quarter of an Hour.

They have made a Question whether Captain *Porter* came in, when *Gunn* was there, he says truly he thinks that Captain *Porter* did come into the Room while he was there, before he went out, but he cannot tell certainly, he was there sometime, while he was there. Then Captain *Porter* was called again, and Cap. *Porter* does say he knows *Gunn* was there, but whether he were there at the time he came in, he cannot say positively ; but *Gunn* says Captain *Porter* was going in and out several times, as *Porter* says himself ; and *Gunn* was absent for some part of the time. So that I cannot see any sort of Contradiction between the Evidence that *Porter* gives, and the Evidence that *Gunn* gives; the one is uncertain, and so is the other as to that Circumstance.

But Gentlemen, they would infer that if there was any such Discourse while *Gunn* was there, it must be of necessity that *Gunn* must have heard it ; but it is not necessary the discourse should be when *Gunn* was there : Captain *Porter* Swears positively that there was such a discourse of going the next day to pursue the design, and he says he thinks *Gunn* was not present at that time when the discourse was, and *Gunn* says he was absent some part of the time.

And so I must leave it to you, upon the whole matter, if Mr. *Cranburn* the Prisoner at the Bar, did Consent and agree to Act in this Bloody and wicked Design, then you are to find him Guilty ; if you are not satisfied of that upon the Evidence you have heard, or you think there is any Inconsistency, or Incoherence in the Testimony on the one side, and the other ; and that there is good Reason to disbelieve the Evidence against the Prisoner, Then you are to acquit him. You have heard your Evidence, and you had best consider of it.

*Cl. of the Crown.* Who keeps the Jury ? *Crier.* there is an Officer Sworn.

Then the Jury withdrew to consider of their Verdict, and about a quarter of an Hour after Returned.

*Cl. of Ar.* Gentlemen answer to your Names, *John Kaine.*

*Mr. Kaine.* Here. And so of the Rest.

*Cl. of Ar.* Are you all agreed of your Verdict ? *Jury.* Yes.

*Cl. of Ar.* Who shall say for you ? *Jury.* Foreman.

*Cl. of Ar.* *Charles Cranburn* hold up thy Hand, (which he did) look upon the Prisoner, how say you, is he Guilty of the High-Treason whereof he stands Indicted or not Guilty ?

*Foreman.* Guilty.

*Cl. of Ar.* What Goods, or Chattles, Lands or Tenements, had he at the time of the Treason Committed, or at any time since.

*Foreman.* None to our Knowledge.

*Cl. of Ar.* Then hearken to your Verdict, as the Court has Recorded it. You say that *Charles Cranburn* is Guilty of the High-Treason whereof he stands Indicted; but that he had no Goods, Chattles, Lands or Tenements, at the time of the High-Treason committed, or at any time since, to your Knowledge, and so you say all ?

*Jury.* Yes.

*Mr. Kaine.* My Lord, the Jury humbly desires they may be discharged from their attendance to Morrow

*L. C. J. Holt.* We cannot do it, unless the Jury be full without them ; If you come early, we shall dispatch you presently.

Then the Prisoner was taken from the Bar, and the Court adjourned till Seven a Clock the next Morning.

F I N I S.

THE  
Arraignment, Tryal, and Condemnation  
OF  
**Robert Lowick,**  
For the Horrid and Execrable  
**CONSPIRACY**  
To Assassinate His Sacred Majesty  
**KING WILLIAM,**

In Order to a  
*French* INVASION of the Kingdom.

Who upon full Evidence was found Guilty of  
High Treason before His Majesty's Justices  
of Oyer and Terminer, at *Westminster*, on  
*Wednesday* the 22th of *April*, 1696, and was  
Executed at *Tyburn* on the 29th day of the  
said Month.

In which Tryal

All the Learned Arguments of the King's Council, and  
likewise the Council for the Prisoner, upon the New  
Act of Parliament for Regulating Tryals in Cases of  
Treason.

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L O N D O N:

Printed for *Samuel Heyrick* at *Grays-Inn-Gate, Holbourn*;  
and *Isaac Cleave* at the *Star* next *Serjeants-Inn-Gate* in  
*Chancery-Lane*. MDCXC VI.

Robert E. Wood

CONSPIRACY

\_\_\_\_\_



*Die Mercurii Viceſimo Secundo Die Aprilis,*

*Anno Domini 1696. Annoq; Regni Regis*

**GULIELMI III.**

*O C T A V O.*

**T**HIS Day the Juſtices of Oyer and Terminer holden for the County of *Middleſex*, adjourned over to Seven this Morning, met, and the Court was Reſum'd by Proclamation in uſual Form.

*Clerk of the Arraignments.* Keeper of *Newgate*, ſet *Robert Lowick* to the Bar, (which was done) You the Priſoner at the Bar, *Robert Lowick*, thoſe Men that you ſhall hear called and perſonally appear, are to paſs between our Sovereign Lord the King and You, upon Tryal of your Life and Death; if therefore you will Challenge them, or any of them, your time is to ſpeak unto them, as they come to the Book to be Sworn; and before they be Sworn.

*Mr. Mompellon.* If your Lordſhip pleaſes to favour me with one Word for the Priſoner at the Bar; I ſhall not trouble your Lordſhip with any thing that was urged by the Gentlemen that were of Council Yeſterday, but I ſhall Rely upon ſomething that has not yet been ſpoken to. My Lord, they have not laid any Time or Place where the Conſent or Agreement was for the Forty Men that were to ſet upon the King and his Guards: There is a Time laid before where they met and diſcourſed of the Ways and Means how to Aſſaſſinate and Kill the King; but when it comes to the *Aſſencerant, Conceſſerunt & Aggreſſerunt*; with Submission, this being another Act; there ought to be another Time and Place laid, and for that I ſhall Cite your Lordſhip two or three Caſes; for Men may meet and Propoſe and Diſcourſe and Conſult of ſuch Things, though they be

K

very

very Ill Things, and yet that may not be Treason. It's the Agreement that is the Treason, and so 'twas held in Captain *Blagues* Case about Taking the Tower: They may meet at one Time and Place, and at another Time and Place they may agree, in *Dyer*, 68. B. and 69 Pl. 28. a Man was Indicted for Murder, that he at such a Place in and upon the Person that was Murdered, *in Sal-tumferit & ipsum*, the Person that was Murdered, *cum Quodam Cur-tello*, of such a Price, *percussit*; and he does not shew the place where he struck him, nor had the Indictment the Words, *ad tunc & Ibidem*, and therefore the Court held it void: So it is likewise Ruled in *Goodrick's* Case, *Hell* 35. & 119. and therefore in Indictments for Murder, since they generally set forth not only the Time and Place of the Assault, but likewise of the Blow; so likewise in things of a more inferiour Nature, as Rescues, Returned by the Sheriff, that the *Capias* was served, but does not shew where the Rescue was, or though he shews where the Arrest was, and an & Coupled the Rescue to it, yet it was adjudged and Ill Return, *Dyer* 69. Pl. 29. 10 *Edw.* 4. 15 *Fitz. Ret. Vic.* 32 *Bro. Ret. Det. Bre.* 97. and Error 194. *Palm.* 363. And in *Noy* 114. there are these Words, Note, It was Moved in Discharge of a Rescue, the Return was, that they, *viz. A. B.* aforesaid the Bayliffs, *ad Tunc & Ibidem Vulneraverunt*, &c. And therefore said *George*, &c. *Rescuserunt* without *ad tunc & Ibidem*. Referred only to the *Vulneraverunt*, and not to the *Rescuserunt*, and therefore the Return was adjudged Insufficient; for my Lord, although in Conveyances, a Clause or Word in the beginning or end may Refer to the whole, yet in Indictments every Sentence must be Certain, Plain, and Express, and have its own Time and Place: Therefore in *Noy's Rep.* 122. *Raymond* was Indicted for stopping a Cross Way leading from a certain Ville called *Stoake*, into a Ville called *Melton* in the County of *Dorset*, and the Indictment was *Quasit*, because in the County of *Dorset* shall refer only to *Melton*, and not to both: So an Indictment of Forceable Entry into a Messuage existent *Liberam Tenementum* of *J. S.* is not good for want of the Word *ad Tunc*, though the Participle *existens* does strongly Imply that it was his House at that time, 3 *Cro.* 754. *Her.* 73 *Noy* 131. *Palm.* 426. *Bridg.* 68. 2 *Cro.* 214, & 610. *Sid.* 102. *Lat.* 109, &c. and my Lord *Coke* tells us in *Calvin's* Case 5. B. That Indictments of Treason of all others are the most Curiously and Certainly Indicted and Penn'd; and all those that I have seen and observed, have Contained more Certainty than the

the Indictment now before your Lordship in *Reginald Tuckers Case*: The Indictment was, that he and *Thomas Place* apud *Bridgewater*, in *Com. Somerset.* prædict. *Compaffaverunt*, to Kill and Depose the King, &c. And to bring their Treasonable purposes to effect, they the said *Reginald Tucker* and *Thomas Place* the same Day and Year, at *Bridgewater* aforesaid, in the County aforesaid, against the King with a great Multitude of People, Arrayed in a War-like manner, viz. with Swords, &c. *se ipsos illicite & proditorie infimul ad tunc & Ibidem Congregaverunt & Assemblaverunt & Guerram publicam Contra dictum Dominem Regem apud Bridgewater prædict. in Com. prædict. Disso Vicesimo Die Junii anno primo. fu. pro dicto proditorie paraverunt ordinaverunt & Levaverunt*; so in the Indictment of *Gate* as it is set forth at large in a Plea in Bar of *Dower*, brought by his Wife, he with Force and Arms, apud *Villam de Ware*, &c. assembled with a great many Persons, & *Bellum Crudele Contra dictam Dominam Reginam apud Ware, prædict. ad tunc falso & proditorie publicavit & Levavit ac in super ad tunc & Ibidem falso & proditorie*, Proclaimed the Duke of *Northumberland* to be Lieutenant General of their Forces; & *etiam falso & proditorie apud Ware prædict. ad tunc*, Proclaimed the Lady *Jane Dudley* Queen. This is in *Bendlows Reports*, Publish't by Serjeant *Rowe*, fol. 55. *placito* 91. So in *Earl of Leiceſter's Case Plowd. Com.* 385. the Indictment is laid much after the same manner, and many other Indictments, which at present I am unwilling to trouble your Lordship with; and this being one of a new Form and of the First Impression, I hope your Lordship will hold it insufficient. And my Lord, when they go farther, and say, *Et Quilibet eorum proditorie super se suscepit esse unum*, there is no place or time alledged where that was done, which of necessity should be mentioned: For it is a constant Rule in our Books, that what is Issuable ought to have a place where it may be tryed. Now this is Issuable, and the most material thing in the Indictment, is for compassing the King's Death. The *Overt Acts* are that *Christopher Knightley* the Prisoner, and Two others, did Consult to kill the King; and afterwards did agree how to do it, viz. by Forty Horsemen; *Quorum*, these shou'd be Four, and every one of them did agree to be one; then comes the other *Overt Act* of Providing Arms for them. Now suppose they should not prove the last, viz. the Providing Arms; then, my Lord, they must resort to one of the other *Overt Acts*, that these Four did Consult and Agree to Kill the King; or that these Four did agree, the manner how to do it, as is laid in the Indictment; and it is plain they must fail of proof of either of these, for by the not Prosecuting any one of the Name of *Christopher Knightley*, but preferring a new Indictment, against one *Alexander Knightley*, it appears that *Christopher Knightley* was not there, and the proving these Three others making a Consult and Agreement, is not a proof of the same *Overt Act*, that is laid in the Indictment as it ought to be by



the late Act ; unless they can prove that a Consult of Three is a Consult of Four : and if it be answered, that it is alledged, that *Quilibet eorum super se suscepit*, then will that come to be Issuable and the most material part of the Indictment ; and consequently a place ought to have been laid where it should be Tried ; this, my Lord, is a distinct Sentence of it self, it is in a *Parentthesis*, and though you take it away the sense of what remains is perfect and intire, and consequently this Sentence is or shou'd be intire of it self, and therefore ought certainly to be express. Besides, if your Lordship pleases, it is not positively laid, what these Persons severally undertook, to be there is indeed mention made before of Forty Horsemen, agreed upon to set upon the King, then comes the *Parentthesis*, *Quorum Idem Christophorus Knightley, Robertus Lowick, Ambrosius Rookwood & Carolus Cranburn forent Quatuor & quilibet eorum proditorie super se suscepit esse unum* : It is perhaps express fully enough by the word *Quorum*, that it was agreed these shou'd be Four of the Forty Horsemen ; but there wants the repetition of the word *Quorum*, to express what they severally engaged to be ; and the word & cannot joyn and connect the Sentences : For *forent* and *suscepit* Differ not only in Number but also in Mood and Tense, and the sense is not necessarily coherent ; for it might be true, that the Majority of the Company might agree, these shou'd be Four, and yet they themselves might not severally Ingage therein, and one or some of them might undertake it, and yet the Company not agreed to it ; and it cannot be mended by Intendment. There was *Faux's Case*, in the 4 Rep. 44. He was Indicted for Murder, for perswading a Man to take *Cantharedes* ; it was laid, That he *Perswadebat eundem Nicholaum Recipere & Bibere Quendam potem mixtum cum Quodam veneo vocat Cantharedes* ; and the Indictment says, *Quod predictas Nicholaas Nesciens predictum potem cum Veneno predicto fore in toxicatum sed fidem ad Hibens Diste perswasioni Willielmi Resepit & Bibit* ; but does not say, *venenum predictum*, but yet it adds, *Per quod predictus Nicholaas immediate post Receptionem veneni predicti*, Languish'd and Dyed here, one wou'd think was a sufficient Implication, that he took and drank the Poison ; but it was Rul'd, that none of these words were sufficient to maintain the Indictment ; for the matter of the Indictment ought to be plain, express, and certain, and shall not be maintained by Argument or Implication, and therefore for want of those words the Indictment was held insufficient, and the Man again Indicted for that Offence, and there seems much more in-certainty in this Indictment, and therefore I humbly pray your Lordship that it may be Quash'd.

Sir B. Shower, My Lord, we think the Objection is fully put, and therefore we desire to have their Answer to it.

Mr. Att. Gen. We think, my Lord, this Objection will receive a very plain Answer. The Indictment sets forth, that at such a Place the Prisoner at the Bar did imagine and compass the Death of the

King :

King: There is a particular place where the imagining was, and that they to accomplish that Treason, in compassing and imagining the Death of the King, did amongst others *postea eidem due anno apud parochiam prædictam*, Meet and Consult, &c. So there's the same place set forth again, wherein they did Meet and Consult of the Ways and Means, and Time and Place, when, where, and how to Assassinate the King: And immediately it follows, & *Conce serunt & agreaverunt*, &c. that Forty Men, whereof they were to be Four, and every one of them undertook to be One, should do so and so. Now, my Lord, say they, It is not said that the Agreement, that there should be Forty Men to do it, was at the same Time and Place where they did Meet and Consult about the Ways and Means: But my Lord, with Submission, it is very plain, that the Agreement for Forty Men, and the particular Agreement for them to be of the Number, is but the effect of the Consultation that is mention'd just before: For it is said, they Consulted how they shou'd do it, and they agreed to do it in this manner; the particular manner is set forth immediately after that, it is said they did Consult of the Manner, so that, my Lord, it is part of the former Sentence; a particularizing of what they did agree upon at that Consultation; but it is no distinct *Overt Act*: If it had been a distinct *Overt Act*, then the Cases that have been Cited by the Council, do show, that there shou'd be a particular time and place mentioned for every *Overt Act*, but this is only a part of that *Overt Act*, that was mentioned generally before: This tells you particularly what the means were they did agree upon, and the Sentence is not compleat till you have gone over this; so that, my Lord, with Submission, it had been very Improper when they agreed at such a Time and Place, of the means and ways how it shou'd be effected, then to set forth, that it was at the same time and Place where they did Consult of the Ways and Means, that cannot be proper; for it is not laid at first, that there was any particular way proposed, but only in general, they Consulted of the Ways and Means; therefore, my Lord, all this that Mr. *Mompesson* has said, will not be pertinent to this Case; it is impossible to have been otherwise; it is but a part of the Sentence; and it is not compleat till you have gone over the several particulars, as to the Case of a *Rescus*, that is, the Offence upon which the matter is to be grounded; the *Verbaravit* and *Vulneravit* are not the Offence but the Resmeing; but where there is not one Sentence compleat, till you come to the end of these words, there it must be all taken together; so it is here, they Consulted of the Way, and agreed this to be the Way, which they set forth in particular: It is join'd to the former part of the Sentence, and the whole is not compleat without it.

Mr. Sol. Gen. With Submission, my Lord, it cannot be otherwise, nor can they make it sense otherwise.

L. C. J. Holt. They say you might, and shou'd have put in, *Ad tunc & Ibidem*.

Mr. Sol.

*Mr. Sol. Gen.* With Submission, my Lord, I say it cannot be repeated again : Indeed if you wou'd make it like the Case, as *Mr. Mompeffon* wou'd have it, that Forty Men did agree to it, and Forty Men did it, it were necessary to name Time and Place, as it is in the Case of Murder; that he did agree to Murder him, and afterwards Knock't him on the Head, there you shou'd lay Time and Place where he agreed, and where he did the Act, for there is an Act done; but in this Case there is no Act done, but only an Agreement that Forty shou'd do it, whereof these Four were to be part of the Number. Now, they cry, you do not say what these Four were to be for; Yes, we do, the Forty were to do such an Act, and these were to be Four of that Forty, and every one of them undertook to be one, so that it cannot be express'd otherwise then it is; for what they say of the Indictments being not in the same Form that other Indictments are, that will be no Argument at all; for it does not follow, that there must be one express Form of Indictments, of right there are divers Forms of Indictments, and all of them good, because Indictments are to be framed, according to the particular Case, and they cannot put me an Instance of such a particular Case as this. As to that of the mistake of the name of *Knightley*, that unquestionably can be no Objection at all; for how does it appear to the Court, that this against the same Person that was before Indicted by the Name of *Christopher*, there may be another *Christopher* nor ought they know: But I will suppose, that the Consult was proved not as it is laid, that they were to be Four; but only that they were to be Three of them, it would be well enough against the Prisoner at the Bar, if he be proved to be one.

*Mr. Conyers.* First, we have here laid a time and place for the Treason alledged in the Indictment, and also for the Two Overt Acts, how, when, and where it was to be done, and the providing of Arms for it; and for this particular of the Forty Men, that they wou'd have us put the *ad hunc & ibidem* to that is but part of the Overt Act, which was before alledged for the first Overt Act mentioned, is the Meeting and Consulting, and there we lay both Time and Place; that on such a Day, and at such a Place, they did meet and Consult of the way and manner how to do such an Act: And then we continue on the Sentence, by particularizing how it was to be effected; that they did agree there shou'd be Forty Horsemen to do it, whereof they were to be Four; this is but a part of the Overt Act, which is the Consulting and Agreeing upon the ways and means; this particular means agreed upon, being but the Result and Effect of the Consultation before; so that we conceive there is no want of time or place, upon which to take Issue in this Case.

*Mr. Comper.* My Lord, I think with Submission, there is nothing in their Objection, and I take it to have Received a full Answer already; yet I would ask one thing  
of



of the Gentlemen of the other side had the Sentence run without the Words *de iis modis & mediis, &c.* which follow after the word *consultavit*, and before the words *& aggregavit*; in this manner, That they did then and there Trayterously treat, propose, consult and agree, that 40 Horsemen, or thereabouts, with Guns, and so forth. If then there had been any Colour to think it necessary, that it shou'd be laid in this manner, That they did then and there Trayterously treat, and then and there Trayterously propose, and then and there Trayterously consult, and did then and there Trayterously agree: and if nor, then I wou'd desire them to tell me why *then and there* is more necessary to one Verb *did agree*, than it is to all the rest, in fence and common speaking. The only use of a Conjunction Copulative, is to derive the force of some Words in a Sentence foregoing, down to a Sentence following, to avoid repetition: And here, though after the Consultation be put many Words that relate to that matter by way of Parenthesis; yet the *ad tunc & ibidem* still does refer to all the Verbs following, being joyned by the Conjunction Copulative; it does not vary the Case at all, the putting in that Parenthesis; it is notwithstanding but as one Sentence: and the supposing that the Parenthesis stood out, makes it very plain, there can be no Colour to say there wanted a Repetition of the *ad tunc & ibidem* to every Verb.

*Sir B. Shower.* With submission to your Lordships Judgment, there is no Answer made to this Objection: I do agree, if there had been several Verbs and no other Words had intervened, that an *Et* wou'd have Coupled all together, and you need not have repeated *ad tunc & ibidem* to every one: But here is a Fact after the Verbs that makes one compleat, intire Sentence; and if this of the 40 Men were left out, it had been a good Sentence, that they did propose and treat how, where and when; that's a Sentence of it self, the Consulting and the Treating of the Ways and Means: But then they say, And they did agree and assent that 40 shou'd do it; now there is no necessity for the interpreting of these words, That they shou'd consult and agree at the same place and time; there is no necessity to conjoin this Agreement for the 40 Men with the Consultation; they might propose and consult at one time and place, and not agree, and afterwards agree at another time and place; it is not a Specification, or, as they call it, a specifick Account of the Consultation, nor a necessary Effect of it, so as to make it necessary to joyn them together; they might meet and consult at one time and place; and at another time and place they might agree that 40 shou'd do it; and therefore when you say at one time and place they did consult and propose, and afterwards they did agree; it is not necessarily imply'd, that it must be at the same time and place; and when it is not necessarily imply'd, we think it necessary in Indictments, for Certainty-sake, to have *ad tunc & ibidem* inserted again.

*Mr. Mompesson.* My Lord, *Mr. Solicitor* says, That as to other Precedents, that does not make it necessary that this shou'd be like them; and that it is no Argument that it ought to be so here. My Lord *Coke*, in *Calvin's Case*, tells us, That by Precedents the Law is known, and that Indictments of Treason are of all things the most curiously Penn'd; and it is common to infer the Law is so, because usually it is so in the Precedents of Indictments. *Mr. Solicitor* says likewise, That there may be a *Christopher Knightley* besides an *Alexander*; but I cannot take that for an Answer to the Exception I urge, which is the want of *ad tunc & ibidem* at the *Quorum*, and the *Quilibet* for the *Quilibet* may come to be in Question as the most material part of the Indictment, because the Agreement of the Four upon the meeting of the Four is alledg'd as an Overt-Act: Now, with submission, they must prove the Assembly of the whole Four,

M

or

or they do not prove the Overt-Act expressly laid ; then as to the *Quilibet susce-  
pit*, which is the most material part, it has no time nor place.

*Mr. Att. Gen.* No sure, we do not need to prove all Four, for it is a distinct Offence in each ; and if any one undertook, it is well enough against him ; and for the time and place, we tell you, it is part of the former Sentence, and makes but an intire one.

*Mr. Mompeyson.* As for the Residue of the Verbs, if they had been omitted, it had been good Sence ; but this is a perfect intire Sentence of itself, when it tells you what they consulted and treated off, as in the Case of the *Refcous* that I put ; if it had stopt there, it had been a good Sentence without the *Vol-  
neraverunt*.

*Mr. Att. Gen.* The *Refcous* is the Offence in that Case, the other is distinct : But here, in this Case, nothing can be plainer than that all is one Act, as we have laid it, That at such a time and place they did consult and treat of the Ways and Means ; but then there is no Agreement mentioned till after we have said they did consult of the Ways and Means, and did agree that this shou'd be the Way : This is certainly one intire Sentence that shows what the Agreement was upon the Consultation as the Result of it.

*Mr. Cowper.* As to what Sir Bartholomew Shower says, That we ought to repeat the *ad tunc & ibidem*, unless the sence of the Words implies a Necessity that the Consultation and the Agreement should be at one time and place. My Lord, there can be nothing in that, for it does not arise from the Necessity of the thing one way or t'other ; but we take it as an intire Sentence, and that the whole Matter is sufficiently connected and laid to one time and place, though it might be divided, it must be taken, as alledged, to be one intire Fact, or else it Recurrs to the same Objection, that *ad tunc & ibidem* must as well be put to every Verb ; for 'tis possible they might propose at one time and place, and consult at another, and debate at another, as well as agree at another : So that nothing is to be argued from the Necessity of the thing more in one Case than the other ; for one Man might propose it in one place, and the rest might then shake their heads at it, and then they might again meet and consult at another place, and afterwards agree at a third : But when it is said *then and there* they did meet, consult and agree, it cannot be understood but that the Agreement was at the same time and place with the meeting and consult.

*Sir B. Shower.* But this can be no Answer that Mr. Cowper gives now, for Proposing, and Consulting, and Treating, and Debating, are all of the same signification, for one Man's proposing to another ; and the other's proposing to him, is Consulting, Treating and Debating ; but now Consulting and Agreeing are different things.

*Mr. Cowper.* So is Proposing and Consulting ; One may propose, but there must be at least Two to consult : there is that nice Difference between them.

*Sir B. Shower.* Every one must agree for himself, and that must be certainly laid with Time and Place, let the Proposal and Consultation be what it will.

L. C. J. Holt.

L. C. J. Holt. Mr. Mompeffon puts that Case in Dyer upon an Indictment of Murder, That on such a Day, and at such a Place, the Party made an Assault upon the persons slain, & percussit; but does not say, *Et ad tunc & ibidem percussit*, and for not alledging that the Indictment was held noughr.

Mr. Att. Gen. My Lord, that is a different Case from this, because *insultum fecit*, and the *percussit*, are different Crimes; there is a great Difference between an Assault and a Stroke: But here it is, That they did Propose and Consult of the Ways and Means, and agreed upon this particular Way; that is the same thing; it is not an intire Sentence till you come to the end of it, then it is compleat when you show what was the Effect of the Consultation; what they were agreed upon, and not till then.

Mr. Mompeffon. A Man's holding up his Hand is an Assault, but he must actually strike to be Guilty of Murder: So a Man may debate, and yet not agree; it is the Agreement that is the Treason.

L. C. J. Holt. Read the Indictment.

Cl. of Arr. **D**Ecimo die Februarii anno Regni dicti Domini Regis nunc septimo, & diversis aliis diebus & vicibus, tam antea quam postea, apud Parochiam Sancti Pauli Covent-Garden, prædictæ, in Comitatu prædicti falsè, malitiosè, Diabolicè, proditoriè, Compassaverunt, Imaginati & Machinati fuerunt, Excogitaverunt, Designaverunt & Intendebant dictum Dominum Regem nunc occidere, interficere, & murrare, & stragem miserabilem inter fideles subditos ipsius Domini Regis per totum hoc Regnum Angliæ passere & causare & ad easdem nefandissimas, nequissimas & Diabolicas proditones & proditorias compassationes, machinationes, & proposita sua prædicta perimplend' perficiend' & ad effectum redigend' ipsi iidem Christopherus Knightley, Robertus Lowick, Ambrosius Rookewood & Carolus Cranburne, & quam plurimi alii falsi proditores (Jurator prædictis ignoti) postea scilicet eodem decimo die Februarii anno supradicto apud Parochiam prædictam in Com' prædicto, ac diversis aliis diebus & vicibus, tam antea quam postea, ibidem & alibi in eodem Com' falso, malitiosè, advisatè, clandestinè, proditoriè, ac vi & armis conveniebant, proposuer' tractaver' consultaver' consenser' & aggregaver' ad ipsum Dominum Regem nunc ex insidiis & dolo percutiend', Anglicè to assassinate, interficiend' & murrand' & ad execrabilem, horrendam & detestabilem Assassination', Anglicè Assassination, & Interfectionem ill' citius exequend' & perpetrand' postea, scilicet eisdem die & anno ac diversis aliis diebus & vicibus apud paroch' præd' in Com' prædicto proditoriè tractaver' proposuer' & consultaver' de viis, modis & mediis ac tempore & loco ubi, quando, qualiter & quomodo dictum Dominum Regem sic ex insidiis facilius interficerent, & consenser' aggregaverunt & assenser' quod quadragint' homines Equestres aut eo circiter (quor' iidem Christopherus Knightley, Robertus Lowick, Ambrosius Rookewood & Carolus Cranburne forent quatuor, & quilibet eor' proditoriè super se suscepit esse unum)

C. 1115



*cum Bombardis, sclopis & sclopetis, pulvere bombardico, & globulis plumbeis onerat' & cum gladiis, ensibus & aliis Armis armat' insidiati forent & essent in subseffu, Anglice in Ambush, ad eundem Dominum Regem in Rheda sua, Anglice his Coach, existen' quando foris iret invadend' Quodque quidem & competens numerus de hominibus illis sic armat' in satellites, Anglice the Guards, ipfius Domini Regis cum tunc attendend' & secum existen' aggressi forent & eos expugarent & devincerent, dum alii eorundem hominum sic armat' ipsum Dominum Regem percuterent, interficerent, occiderent & murrarent.*

*Mr. Mompeffon.* The Consult is like the Assault, and the Agreement is like the Stroke.

*L. C. J. Treby.* It is a nice Case as you wou'd have it, but I think it is very natural as the King's Council put it at first; they lay the Consultation of the Ways and Means how it shou'd be done, and then they conclude that thus it shall be done: all which makes but one intire thing.

*L. C. J. Holt.* They say they met that day at St. Paul Covent-Garden, that's in the beginning, and did consult how to Kill the King; and they consented and agreed among themselves, that it shou'd be done in this manner: Does not this referr to both Time and Place in the beginning? It is a continuing on of the same Sentence, and makes all but one and the same Act; it is the Result of the Consultation at that time and place.

*Sir B. Shower.* But, my Lord, it might be at another place: they might Consult at one place, and Conclude at another.

*Mr. Conyers.* But it is laid to be at the same place, for no other place does appear, and it is one continued Sentence.

*L. C. J. Treby.* You wou'd make the Repetition so frequent and reiterated, that it wou'd become absurd.

*Mr. Att. Gen.* Indeed I do not know what these Gentlemen wou'd have.

*Sir B. Shower.* We wou'd have this Indictment as all others are, the Precedents are as we say, and we hope this shall pursue 'em, or else be quasht.

*L. C. J. Holt.* Look ye here, Sir *Bartholomew Shower*; Suppose this part shou'd not be right, that will not Vitiate the whole Indictment.

*Mr. Mompeffon.* But your Lordship wont suffer them to give Evidence of that part that is Virious.

*L. C. J. Holt.* Yes, yes; it comes within the first Words of the Time and Place laid; they may give Evidence of it, because this is but a setting forth the Manner agreed upon for the Execution of the Design that was before consulted and treated off; it is comprehended in the former Words; and if they had omitted this out of the Indictment, the Indictment had been never the worse; there had been a sufficient Overt-Act alledged to prove the Com-passing and Imagining the Death of the King; for if People at such a place and  
time

time meet, and propose the way and means how to effect it, do you think the Indictment wou'd not be good enough without laying the particular means agreed upon? Certainly it had been well enough if this had been omitted. Do you think they cannot give in Evidence this as a Proof of the Overt Act? Certainly they may.

*Sir B. Shower.* The Question will be, my Lord, then upon the whole, Whether the Conclusion of the Indictment, *contra legiantia sua Debitum*, shall be taken Distributively to every Fact, and if so, then there ought to be time and place alledg'd to every Fact.

*L. C. J. Holt.* Suppose you lay several Overt Acts, and prove but one yet he is to be found Guilty of the High Treason, which is the Imagination, and Compassing the Death of the King, which is the Crime laid in the Indictment; then suppose this was left out of the Indictment they might give it in Evidence as a Proof of the Overt Act, that is well laid for time and place; and therefore though it be express'd, and not so fully and particularly laid, we cannot quash the Indictment for it, because the Indictment would have been good, though that had been omitted.

*L. C. J. Treby.* That is certainly true, it is no Cause for quashing the Indictment.

*Mr. Soll. Gen.* The Indictments against the Regicides were for Compassing the Death of the King, and they gave in Evidence that he was put to Death, though they charg'd in the Indictment only the Compassing and Imagining the Death of the King.

*L. C. J. Holt.* Ay sure, That is an Overt Act with a Witness, the Indictment was not laid for Murdering the King, but for Compassing his Death, which is the Treason according to the Act of Parliament of 25th, Ed. the 3d. and as an Overt Act they gave the cutting off his Head in Evidence.

*Mr. Att. Gen.* The Indictment says, they Compass'd and Imagined the Kings death, and they agreed to do it in this manner; if this be not all one intire Sentence I know not what is

*L. C. J. Holt.* As to your Case, *Mr. Mompeffon*, which you quote out of *Dyer*, it is possible a man may make an Assault at one time, and at another time make an Assault and give a stroke, but this is all one Act, it does but specify what was generally consulted off and proposed.

*L. C. J. Treby.* Pray, do you think a man may Demurr upon a Common Action of Battery where, 'tis said first, at such a time and place, *Insultum fecit & verberavit, vulneravit*, because there is not a place set to every word.

*Mr. Mompeffon.* Indictments ought to be very curiously Penn'd, and what is good in an Action will not be good in an Indictment, with submission.

*L. C. J. Treby.* But suppose you show'd it for Cause upon special Demurr.

*Mr. Mompeffon.* My Lord, I cannot tell what it wou'd amount unto.

*L. C. J. Holt.* You cannot quash the Indictment at this time, that is not possible, because the Indictment is good as to the rest, supposing this was not so well as it might be.

*Mr. Mompef.* Then, my Lord, I am in your Lordships Judgment, whether they shall be admitted to give in Evidence this particular thing.

*L. C. J. Holt.* They may certainly give in Evidence, the Agreement to have 40 men to kill the King, as a proof of the Consultation, Agreement and Consent to kill the King; and the Consenting to have 40 Horsemen is an Evidence of their treating, proposing and consulting to kill the King. Then for your Objection of *Quilibet suscepit* to be one, that is well enough, it is all still but one Sentence.

*Sir B. Shower.* One of which is it, for they have not laid in the Indictment what it is, whether it be one of the Four, or one of the Forty.

*L. C. J. Holt.* Whether it be one of the Four, or the Forty is not material, for cannot one be found Guilty and the rest Acquitted? the one is not charg'd with the Act of the other, but they are several Offences, and each must answer for himself in all Indictments. Offences are several. Suppose an Indictment of Conspiracy, and it is laid in the Indictment that Four did Conspire, can't you prove that two Conspired? no Question you may. It is not certainly necessary that every one should be proved to have Conspired. Suppose it were alledged that Four did beat a man, and does not say *Quilibet eorum* beat him, you may give in Evidence that one did beat him.

*Sir B. Shower.* No Question of that in Case of a Battery, but in the Case of a Conspiracy there must be more than one.

*L. C. J. Holt.* Nay, I will ask you even in an Action of Conspiracy, where the very Gift of the Action is Conspiring together, cannot two be found Guilty and the rest Acquitted? In Riots there must be Three or more. It may be you'll lay Ten, but it is sufficient; I hope, if you prove it upon any Three of them.

*Mr. Att. Gen.* The Difference is betwixt Contracts and Crimes, for Contracts they are joynt, but Crimes they are in their own Nature several.

*Mr. Soll. Gen.* Besides, my Lord, though they be out of time, yet this is not to the Abatement of the Indictment; but to the Evidence; how do they know, but we will give it in Evidence that *Christopher Knightsly* was one.

*L. C. J. Treby.* *Mr. Mompeffon* moves it as a Caveat against your giving it in Evidence.

*Sir B. Shower.* If in an Outlawry against divers they leave out these words, *Nec eorum aliquis compernit*, that is every day held to be nought, and for that Reason we say, the *Quilibet eorum suscepit* is necessary too, and without being laid cannot be given in Evidence, and if it be laid, it ought to have time and place.

*L. C. J. Treby.* The Default of appearance must be a several thing, and when he lays it joyntly *non compernerunt*, it may be true that all did not appear, if any one made Default; but when you Charge men with a Fact done, though in the plural number, yet it is a distinct separate Charge upon every one.

*Cl. of Arr. Robert Lowick* those men that thou shalt hear call'd, and personally appear, are to pass between our Sovereign Lord the King, and you, upon Tryal of your Life and Death; if therefore you will Challenge them, or any of them; your time is to speak to them as they come to the Book to be sworn, and before they be sworn. *George Ford.*

*Lowick.*



*Lowick.* I do not except against him.

*Cl. of Arr.* Hold the Book to Mr. Ford.

*Cryer.* Look upon the Prisoner, you shall well and truly try, and true Deliverance make, between our Sovereign Lord the King and the Prisoner at the Bar, whom you shall have in Charge, and a true Verdict give according to your Evidence : So help you God.

*Cl. of Arr.* Thomas Trench.

*Lowick.* I have nothing to say against him. (He was Sworn.)

*Cl. of Arr.* John Wolfe.

*Lowick.* I do not except against him. (He was Sworn.)

*Cl. of Arr.* James Bodington.

*Lowick.* I challenge him.

*Cl. of Arr.* John Raymond.

*Lowick.* I say nothing against him. (He was Sworn.)

*Cl. of Arr.* George Hawes.

*Lowick.* I do not except against him. (He was Sworn.)

*Cl. of Arr.* Thomas Glover.

*Lowick.* I challenge him.

*Cl. of Arr.* Matthew Bateman.

*Lowick.* I do not except against him. (He was Sworn.)

*Cl. of Arr.* James Partherith.

*Lowick.* I challenge him.

*Cl. of Arr.* Joseph Blisset.

*Lowick.* I challenge him.

*Cl. of Arr.* Alexander Forth.

*Lowick.* I challenge him.

*Cl. of Arr.* Francis Chapman.

*Lowick.* I challenge him.

*Cl. of Arr.* Nicholas Roberts.

*Lowick.* I challenge him.

*Cl. of Arr.* Thomas Playstead.

*Lowick.* I challenge him.

*Cl. of Arr.* John Hall.

*Lowick.* I challenge him.

*Cl. of Arr.* William Partridge.

*Lowick.* I challenge him.

*Cl. of Arr.* Peter Levisne.

*Lowick.* I challenge him.

*Cl. of Arr.* Thomas Moody.

*Lowick.* I challenge him.

*Cl. of Arr.* Thomas Ramage.

*Lowick.* I do not except against him. (He was Sworn.)

*Cl. of Arr.* Edward Townesend.

*Lowick.* I challenge him.

*Cl. of Arr.* William Gunson.

*Lowick.*

*Lowick.* I challenge him.

*Cl. of Arr.* *John Wyborne*, he did not appear. *William Strode.*

*Lowick.* I challenge him.

*Cl. of Arr.* *William Wild.*

*Lowick.* I do not except against him. (He was Sworn.)

*Cl. of Arr.* *William Pitts.*

*Lowick.* I do not except against him. (He was Sworn.)

*C. of Arr.* *William Smith.*

*Lowick.* I do not except against him. (He was Sworn.)

*Cl. of Arr.* *Moses Cook.*

*Lowick.* I challenge him.

*Cl. of Arr.* *Benjamin Boltby.*

*Lowick.* I do not except against him. (He was Sworn.)

*Cl. of Arr.* *Elias Fletcher.*

*Lowick.* I have nothing to say against him. (He was Sworn.)

*Cl. of Arr.* *Cryer countez.* *George Ford.*

*Cryer.* One, &c.

*Cl. of Arr.* *Elias Fletcher.*

*Cryer.* Twelve Good Men and True, stand together and hear Your Evidence.

*L. C. J. Holt.* Now the rest of the Jury that have appeared are Discharg'd.

*Cl. of Arr.* *Cryer*, make Proclamation.

*Cryer.* Oyez, If any one can Inform My Lord's the King's Justices of Oyer and Terminer, the King's Serjeant or the Kings Attorney General, before this Inquest be taken of the High Treason, whereof the Prisoner at the Barr stands Indicted, let them come forth, and they shall be heard, for now the Prisoner stands at the Bar upon his Deliverance; and all others that are bound by Recognizance to give Evidence against the Prisoner at the Bar, let them come forth and give their Evidence, or else they forfeit their Recognizance. The Names of the Twelve Sworn are these;

*George Ford.* Esq;  
*Thomas Trench.* Esq;  
*John Wolfe.* Esq;  
*John Raymond.* Esq;  
*George Hawes.* Esq;  
*Matthew Bateman.* Esq;

Thomas Ramage. Gent.  
*William Wild.* Gent.  
*William Pitts.* Gent.  
*William Smith.* Gent.  
*Benjamin Boltby,* Gent. and  
*Elias Fletcher.* Gent.

Jur.

*Cl. of Arr.* *Robert Lowick* hold up thy hand; which he did. You that are Sworn, look upon the Prisoner and hearken to his Cause. He stands Indicted by the Name of *Robert Lowick*, late of the Parish of *St. Paul* Convent-Garden, in the County of *Middlesex*, Gentleman; for that he, together with *Christopher Knightley*, late of the same Parish and County, Gentleman; *Ambrose Rookwood*, late of the same Parish and County, Gentleman; and *Charles Cranburne*, late of the same Parish and County, Yeoman; not having the Fear of God in their Hearts, nor weighing the Duty of their Allegiance, but being moved and seduced by the Instigation of the Devil, as false Traytors against the most Serene, most Illustrious, most Mild and most Excellent Prince, our Sovereign Lord, *WILLIAM the III.* by the Grace of God, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, &c. their Supreme, True and Rightful, Lawful and Undoubted Lord; the Cordial Love and True, and Due Obedience, Fidelity and Allegiance, which every Subject of our said Lord the King, that now is, towards him our said Lord the King, should then of right, ought to bear, withdrawing and utterly to extinguish, intending and Contriving, and with all their strength Purposing, Designing and Conspiring the Government of this Kingdom

Kingdom of *England*, under him our said Lord the King that now is, our right, duly, happily, and very well established, altogether to subvert, change, and alter; as also the same our Lord the King to Death and final Destruction to put, and bring, and his faithful Subjects, and the Freemen of this Kingdom of *England*, into incollerable and most miserable Slavery to *Lewis* the French King, to subengage and inthral, the 10th day of *February*, in the Seventh Year of the Reign of our Sovereign Lord the King that now is, and diverse other days and times, as well before, as after, at the Parish of *St. Pauls Covent-garden* aforesaid, in the County aforesaid, falsely, maliciously, devilishly, and traiterously, did Compass, Imagine, and Contrive, Purpose, Design, Intend, our said Lord the King that now is, to Kill, Slay, and Murder; and miserable Slaughter among the faithful Subjects of our said Lord the King throughout this whole Kingdom of *England*, to make, and cause, and the same their most wicked, impious, and devilish Treasons, and traiterous Compassings, Contrivances, and Purposes aforesaid, to fulfil, perfect, and bring to effect, they the said *Christopher Knightly*, *Robert Lowick*, *Ambrose Rockwood*, and *Charles Cranburn*, and very many other false Traitors to the Jurors unknown; afterwards, to wit the same Tenth Day of *February*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, and divers other Days and Times, as well before, as after; there, and elsewhere, in the same County, falsely, maliciously, advisedly, secretly, and traiterously, and with Force and Arms did meet together, propose, treat, consult, consent, and agree, him our said Sovereign Lord the King, that now is, by lying in Wait and Wild, to assassinate, kill, and murder, and that execrable, horrid, and detestable Assassination, and Killing, the sooner to execute and perpetrate; afterwards, to wit, the same Day and Year, and divers other Days and Times, at the Parish aforesaid, in the County aforesaid, traiterously did treat, propose, and consult, of the Ways, Manner, and Means, and the Time and Place, where, when, how, and in what manner, our said Lord the King, so by lying in Wait, the more easily they might kill; and did consent, agree, and assent, that Forty Horsemen, or thereabouts; of whom the said *Christopher Knightly*, *Robert Lowick*, *Ambrose Rockwood*, and *Charles Cranburn*, would be Four; and every one of them traiterously took upon himself to be one, with Guns, Muskets, and Pistols, loaden with Gunpowder and Leaden Bullets; and, with Swords, Rapiers, and other Arms, armed, should lye in Wait, and be in Ambush, the same our Lord the King in his Coach being, when he should go abroad to set upon, and that a certain and competent number of those Men so armed should set upon the Guards of him our said Lord the King then attending on him, and being with him, and should fight with them, and overcome them, whilst others of the same Men so arm'd, him, our said Lord the King, to assassinate, kill, slay, and murder: and they the said *Christopher Knightly*, *Robert Lowick*, *Ambrose Rockwood*, and *Charles Cranburn*, their Treasons, and all their Traiterous Intentions, Designs, and Contrivances aforesaid, to execute, perpetrate, fulfil, and bring to effect afterwards, to wit the aforesaid 10th day of *February*,



in the Seventh Year aboveſaid, at the Pariſh aforeſaid, in the Country aforeſaid, divers Horſes, and very many Arms, Guns, Piſtols, Rapiers, and Swords, and other Weapons; Ammunition, and Warlike things, and Military Inſtruments, falſly, maliciously, ſecretly, and traiteroſſly did obtain, buy, gather together, and procure; and did cauſe to be bought, obtain'd, gather'd together, and procured with that Intent, them, in and about the deteſtable, horrid, and execrable Aſſaſſination, Killing, and Murder of our ſaid Lord the King, that now is, as aforeſaid, to uſe, imploy, and beſtow; and the ſame promiſes the more ſaſely, and certainly to execute, do, and perpetrate, he the aforeſaid *Chriſtopher Knightly*, with one *Edward King*, lately of High Treason, in contriving and conſpiring the Death of our ſaid Lord the King that now is, duly convicted and attainted, by the Conſent and Aſſent of divers of the Traitors and Conſpirators aforeſaid, the ſaid tenth day of *February*, in the Seventh Year aboveſaid, traiteroſſly did go and come to the place propoſed, where ſuch intended Aſſaſſination, Killing, and Murder, of our ſaid Lord the King, by lying in Wait, ſhould be done, perpetrated and committed, to view, ſee, and obſerve, the Convenience and Fitneſs of the ſame place for ſuch lying in Wait, Aſſaſſination, and Killing, there to be done, perpetrated and committed; and that place being ſo viewed and obſerved afterwards, to wit, the ſame day and year, his Obſervations thereof to ſeveral of the ſaid Traitors and Conſpirators, did relate and impart, to wit, at the Pariſh aforeſaid, in the County aforeſaid, and the aforeſaid *Charles Cranburn*, the ſame Day and Year there in order, the ſame execrable, horrid, and deteſtable Aſſaſſination, and Killing of our ſaid Lord the King, by the Traitors and Conſpirators aforeſaid, the more readily and boldly to execute, perpetrate, and commit, adviſedly, knowingly, and traiteroſſly, did bear and carry among divers of thoſe Traitors and Conſpirators forwards and backwards, from ſome to others of them, a Liſt of the Names of divers men of thoſe who were deſign'd and appointed, our ſaid Lord the King, ſo as aforeſaid, by lying in Wait to kill and murder, againſt the Duty of the Allegiance of them the ſaid *Chriſtopher Knightly*, *Robert Lowick*, *Ambroſe Rookwood*, and *Charles Cranburn*; and againſt the Peace of our ſaid Sovereign Lord the King that now is, his Crown and Dignity, as alſo againſt the form of the Statute in ſuch Caſe made and provided: Upon this Indiſtment, he has been arraigned, and thereunto hath pleaded Not Guilty; and for his Trial hath put himſelf upon God and the Country, which Country you are: your Charge is to inquire, whether he be Guilty of the High Treason whereof

whereof he stands indicted, or Not Guilty; if you find him Guilty, you are to inquire, what Goods or Chattels, Lands or Tenements, he had at the time of the High Treason committed, or at any time since, to your Knowledge. If you find him Not Guilty, you are to inquire whether he fled for it, if you find he fled for it, you are to inquire of his Goods and Chattels, as as if you had found him Guilty; if you find him Not Guilty, and that he did not fly for it, you are to say so, and no more; and hear your Evidence.

*Mr. Mountague.* May it please your Lordship, and you Gentlemen of the Jury, this is an Indictment of High Treason against *Robert Lowick*, Prisoner at the Bar, and the Indictment does charge him with compassing and imagining the Death of the King, and endeavouring to subvert the Government, and inflame this Kingdom of *England*, and bring it under *French Tyranny* and Slavery, and the Indictment sets forth that *Robert Lowick*, the Prisoner at the Bar, the Tenth of *February*, met several false Traitors, and there consulted and treated how to assassinate his Majesty; and agreed, that 40 Horsemen to get together, some to attack the Guards, while others were to assassinate the King in his Coach; and the Indictment charges him likewise, with getting together Horses and Arms for this purpose, to this he hath pleaded Not Guilty. We will call our Evidence, and prove the Fact against him, and we do not doubt but you will do your Duty.

*Mr. Attorn. Gen.* May it please your Lordship, and you Gentlemen that are sworn; this is an Indictment of High Treason, in conspiring and compassing the Death and Destruction of the King, the nature of our Evidence against the Prisoner at the Bar.

You will hear Gentlemen by the Witnesses that about *Christmas* last a Conspiracy and Design was set on foot to assassinate the King, and accordingly to accomplish it, there were several persons sent over from *France* by the late King *James*, who were part of his Guards, and particularly *Sir George Barclay* was to be the Head of them; he was a Lieutenant of the Guards there, and he was sent over in *January* last, and there were a great many Troopers sent over, who were to be under his Direction, particularly *Mr. Harris*, who will give you an account, that he was sent over by order of King *James*, and he was told particularly King *James* had a Service for him to do in *England*, and

and he hop'd it might be an opportunity to advance him. He was to observe the Orders of Sir George Barclay, and by what Token he should know him; he was to meet him in *Cowen Garden*, and he was told he might find him there twice a week in the Square, about six a Clock after it was dark; and that he might know him, he told him, he would have his White Handkerchief hanging out of his Pocket, accordingly Mr. Harris came over, and Mr. Hare came with him, and they came and did meet with Sir George Barclay, and they, together with Sir George Barclay, and several others here in *England*, Mr. Porter, Mr. Charnock, and Sir William Parkyns, did enter into Consultation how to effect it; there were several Meetings about it, and you will find the Prisoner at the Bar was at several Meetings to that purpose, and they did undertake, among them, to provide so many Men as might make about the Number of 40, which they thought sufficient for the execution of this Design.

Gentlemen, you will hear that the Prisoner at the Bar did treat with several persons to be engaged in it; particularly, about the 5th of *February*, he sent to one *Bertram*, and askt him, if he would be engaged in a Design for King James's Service that was quickly to be executed, without asking of Questions, and afterwards I think he undertook he would; so about the 14th *February* he met him again, and that was the day before the first time they intended to attack the King, and then being so near the time when it was to be executed, he thought it proper to acquaint him with the thing he had engag'd him in, and he did acquaint him, that the next morning they were to be ready to attack the King and his Guards, and bid him be sure to get his Boots and other things ready for that purpose, and he gave him a Guinea in order to it. *Bertram*, it seems, on the 15th of *February* did not come, and the King it seems did not go abroad that day, so they were disappointed at that time; but the Sunday after *Bertram* met him, and Mr. Lowick complained that he had not come upon the Saturday according as he had undertaken; and he told him it would have been the same thing, he would have disappointed them if the King had been in the Field.

Gentlemen, you shall find, that as he thus engaged Mr. *Bertram*, so he was to provide several others; and he did declare, that at his own Charge he had got 2 or 3, he complained of it as a Hardship put upon him, that whereas Mr. Harris had 61: a day Subsistence, and was only to take care of himself, he, Mr. Lowick, had at his own Charges engaged and provided several.

You



You will find Gentlemen that Mr. *Bookwood*, who was tried Yesterday, had several Meetings about it, with Mr. *Lowick* and Mr. *Harris*; they did think it to be a barbarous thing: but however they were resolv'd to obey Orders, and the Prisoner in particular said he wou'd obey Orders, tho he thought it a very wicked thing.

Gentlemen, you will find by the Evidence how the Matter was carried on; the Prisoner was to be engaged in it, and did not only imbarque himself in Person; but engaged others, and did treat with them about it. We shall call our Witnesses, who will give you a full account of it, and then we shall leave it with you, who we question not will do Justice: First call *George Harris*; who appeared and was sworn.

*Mr. Sol. Gen.* Pray will you give an account to my Lord and the Jury, what you know of the intended Assassination, and what part the Prisoner at the Bar had in it.

*Mr. Conyers.* Begin from the first, and tell your whole Knowledge as you did Yesterday.

*Mr. Harris.* On the fourteenth of January, New Stile, I was ordered to wait King *James* at Dinner; after Dinner was over, I was called in, where was Coll. *Parker*, and Mr. *Hart*, at the same time, and King *James* told me he was very sensible of the good Service I had done him; and now he had an opportunity of doing something for me: I was to go into *England*, and there to be subsisted, and I was to follow the Orders of Sir *George Barclay*; the King told me I shou'd find Sir *George Barclay* in *Covent-Garden*, with a White Hankerchief hanging out of his Pocket, on Mondays and Thursdays between the Hours of six and seven in the Evening, and that was the sign I was to know him by, and he ordered me to go to Mr. *Carroll*, that is Secretary to the late Queen, and Coll. *Parker* went along with me, and he ordered me ten *Leviedores*, and Mr. *Hart* as much, which Mr. *Carroll* gave us; and if that were not sufficient, or if we were Wind-bound at *Calice*, we had Orders to apply to the President of *Calice* to be furnish'd with what we wanted: Accordingly we went, and the Wind not serving when we came to *Calice*, we were forc'd to stay there, and our Charges were paid to our Landlady by the President of *Calice*, according to the Order we received at *St. Germain*; when the Wind served fair we went on Board, and came to *Runney-Marsh*, to one Mr. *Hunt*'s House, and from thence he furnish'd us with a Couple of Horses, and we came the Sandy-way to one Mr. *Tucker*'s, and from thence to Mr. *Cress*'s, and from thence to *Graves-end*, and from thence to *London*: We came up in the Night-Tide, and being late when we came to Town. Sunday Night we lay at an Inn at the lower-end of *Gracious-street*; the next Day we went to look for Sir *George Barclay*, but not finding him in *Covent-Garden*, according to what King *James* told us, I admired at it; but one Mr. *Birkenhead* meeting my Comrade the next day, said Sir *George Barclay* desired to see us, and appointed us to meet him, which we did that Night; where Sir *George Barclay* ask'd us how the King and Queen, Prince and Princess did; he told us at that time he had no Money for us, but in a few Days we shou'd have Money; and accordingly he sent us Money. We had five Guineas but it was at twice, two Guineas at one time and three at another, and this was for a Months Subsistence at Five Shillings a Day, Guineas going then at Thirty Shillings. And afterwards when Major *Holmes* delivered the Horse, upon Saturday the fifteenth, we had another Guinea that made up what we had to be six Shillings a Day when we had Horses, and five Shillings a Day when we had none: and as for Mr. *Lowick*, the first Saturday which was designed for the Assassination, I happened to be at Mr. *Cumt*'s Lodgings in *Holbourn*, a Confectioners; and there I see Mr. *Lowick* come in.

*Mr. Conyers.* Who Lodged there, pray Sir?

P

Mr. Con-

*Harris.* Sir *George Barclay* and Mr. *Coxeter* had Lodgings there, and Mr. *Lewick* came in there, but I cannot say he staid there any time, I think he went out presently afterwards. The next Week I met Mr. *Lewick* in *Red-Lion-Fields* and discoursed with him there about this Matter, and I told him what a barbarous and inhumane thing it was that we should be the Murderers of the Prince of *Orange*, and that it would render us odious to the World, and that we should be a continual Reproach to our Selves; he did agree it was so: But in conclusion Mr. *Lewick* said he would obey Orders, and he said Sir *George Barclay* he was sure would not do it without Orders. That Day when we were walking out we met Sir *George Barclay* and Major *Holmes* riding in the High-way up towards *Islington*, and we spoke to him, for Mr. *Lewick* told me the Thing was discovered, and his Name was given up, and other Gentlemen, and I think another; and so he told me that one *Harrison* had told him of it, and forewarn'd him that Night from lying in his Lodging; and he told him that he believed it would not be safe for the rest to lye in their Lodgings, or to that effect.

*Mr. Att. Gen.* When he said he would obey Orders, What was the Discourse about?

*Harris.* We were talking of Murdering the Prince of *Orange*; and not only that, but I do believe that Mr. *Lewick* is so sensible that what I say is true, and he is a Man of so much Conscience and Honour, that he will not contradict any thing that I affirm or have said here. On *Saturday* the Two and Twentieth we dined at the *Castle*, a Tavern or a Cook's Shop, at the end of *Red-Lyon-Street*. I was much in a Sweat, and he ask'd me what made me so? I told him I had been getting Captain *Rookwood's* Party ready; and I told him laughing, that Captain *Rookwood* said I should be his *Ayd du Camp*, and so I was getting the Men together: says he to me, you may very well do it, for you have Six Shillings a day, and I have nothing. Mr. *Lewick*, you know what I say to be true, I know not why you lift up your hands; but you did tell me I might very well do it, having Six Shillings a day, and you had nothing, and yet brought a couple of Men at your own Charge, and that their Horses could not be discharged unless you went. These were his Words, my Lord, or to this effect.

*Mr. Att. Gen.* What do you mean by being discharged?

*Harris.* I mean this, that I believed he paid for them; and they were waiting at a House till he came.

*Mr. Conyers.* Why were they to be discharged that day?

*Harris.* The Reason why they were to be discharged that day was, because Captain *Rookwood* had told him before, that the Prince of *Orange* did not go out that day; and therefore we went together to walk towards *Islington*.

*L. C. J. Holt.* What day was that?

*Harris.* The second *Saturday* that it was to have been executed. I was not a Spy upon any Man's actions: I cannot tell what they did any more than I tell you: I do not wrong you any way in the World, Sir, I am sure on it.

*L. C. J. Holt.* When was it that you spoke with Mr. *Lewick* about Murdering the King?

*Harris.*

*Harris.* It was Monday, Tuesday, Wednesday, or Thursday. I cannot be exact to the day, but it was one of these days, after the first Saturday; I cannot be positive what the day was.

*L. C. J. Holt.* Well, it was between the two days?

*Harris.* Yes, it was.

*L. C. J. Holt.* How did you know of that Design of Murdering the King?

*Harris.* I was inform'd of it by Captain *Rockwood* the first Saturday, and I met Mr. *Lowick* and had this Discourse about it; and afterwards they inform'd me that Mr. *La Rue* did not lie at his Lodgings, and the thing was discovered, and they believed that *Rue* had discovered it: And I desire you'll call Mr. *La Rue* as to this Matter; for I believe he will own it.

*Mr. Sol. Gen.* How came you to trust him with such a Discourse?

*Harris.* Because we met there at *Counter's* Lodgings, and we had several times Discourses of it; there was Major *Bernard* and Captain *Rockwood* besides, and I always declared against it, as a barbarous inhumane thing, not to be answer'd before God or Man, and that we shou'd be odious to all the World if the thing were effected, as I believed it wou'd not be. I wou'd never shew my Head after such a thing.

*Mr. Sol. Gen.* Do you remember who began the Discourse of this matter?

*Harris.* I cannot tell that. I can't come to every particular.

*Sir Barth. Shower.* You said just now, you apprehended Mr. *Lowick* to be a Man of Conscience and Honour; Pray what were his Sentiments about it?

*Harris.* His Sentiment was, that he wou'd obey Sir *George Barclay's* Orders, and he was sure Sir *George Barclay* wou'd not do it without Orders.

*Sir Barth. Shower.* Did not he declare it to be a Barbarous Design?

*Harris.* I can't remember every particular thing that he said; for I am not a Spy upon any Man's Actions.

*Lowick.* When you were talking of that Design that you speak of, pray did I consent to any such thing?

*Harris.* I tell you how far you consented; you said you wou'd obey Sir *George Barclay's* Orders, and you was sure he wou'd not do it without Orders.

*Mr. Mompesson.* Did you see any of Sir *George Barclay's* Orders?

*Harris.* No, I did not, I was to follow his Orders; but what Orders he had I cannot tell.

*Mr. Sol. Gen.* What did Sir *George Barclay* tell you you were to do?

*Harris.* Sir *George Barclay* declared on the first Saturday that we were his Janizaries, and talked of attacking and bringing away the Garter: I cannot say this Gentleman was by then; and afterwards Sir *George Barclay* went out and returned, and came in again into the Room, and declared that we were Men of Honour, and that we were to attack the Prince of Orange.

*Mr. Mompesson.*



*Mr. Mompesson.* Did Sir George Barclay give the Prisoner at the Bar any Orders.

*Harris.* I don't tell you he did.

*Mr. Mompesson.* You say you met Sir George Barclay and Major Holmes upon the Road going to Islington : How do you know the Prisoner was there ?

*Harris.* Why, was not I with him ? I am very sorry to come upon this Account ; but you know it is Truth all that I say ; and I am sure you are sensible I do you no Wrong : he met Sir George Barclay and Major Holmes, and he went down and said something to Sir George Barclay in the Highway ; what it was I don't know ; but I stood, and Captain Roskwood and Mr. Bernard said something to him, which you very well know.

*Mr. Att. Gen.* What was it ?

*Harris.* I can't tell, Sir.

*Mr. Att. Gen.* We do not desire you to tell what you can't tell : Is this all you know ?

*Harris.* It is all at present that I recollect.

*Mr. Sol. Gen.* Then pray swear Mr. Bertram ( which was done. )

*Mr. Conyers.* Pray will you give an Account to my Lord and the Jury what you know of this Intended Assassination, and how far the Prisoner was concerned in it.

*Bertram.* My Lord, about the beginning of February last, Major Lowick came to me, and ask'd me if I wou'd espouse a thing with him that might be for my Advantage ; I told him that I thought I might espouse any thing that he thought fit to engage in.

*Mr. Mompesson.* Whom did you tell so ?

*Bertram.* Major Lowick ; and he told me it was well, and desired me to ask no more Questions : I did not, but it went on till the 14th of February, when he desired me to be at his Lodgings at Twelve a Clock. I was so, about that time, but he was not within, and I staid till he came in, and he took me up into his Chamber, and told me he believed they shou'd Ride out in some little time ; and he told me he believed the King was to be seiz'd in his Coach ; and he gave me a Guinea to buy me Necessaries.

*L. C. J. Holt.* What Necessaries ?

*Bertram.* I can't say he named any.

*Mr. Att. Gen.* But for what purpose were those Necessaries ?

*Bertram.* I don't know that he named any thing, indeed.

*Mr. Att. Gen.* Well, Did he tell you when you were to be ready ?

*Bertram.* If you please to give me leave, I'll tell you : He desired me not to be out of the way ; and the next Morning I was to meet him at the Purl-House in Hartsfreet. I did not meet him ; and the next time I saw him, I am not positive whether it was the next day after the Fifteenth when I was to meet him at Hartsfreet, but did not so ; but the next time I saw him he ask'd me why I did not meet him according to his Appointment ? I told him

him, I had some Reason for it, and he answered me again, That he believed, if the King had been in the Field, I would have done the same; but I have not seen him since till I saw him at the Bar.

Mr. Att. Gen. Had you no Discourse of Horfes that you were to provide?

**Bertram.** I do not remember any particular thing more than I have told you.

Mr. Att. Gen. Did he not tell you what the Design was you were to go about?

*Birram.* He did not tell me of any other Design than as I tell you, for he believed I knew of it, I thought so at least; the first time I knew of it was from Mr. Cbernock.

L. C. J. H. What did he tell you was the Design that you should Engage in for your Advantage upon Friday the 14th, when he gave you the Guinea?

Bertram. He told me, he believed they should ride out very suddenly, and that the King was to be seized in his Coach.

LCJ. H. Did he tell you when the King was to be seized? 11/21/68

Bertram. No, he did not tell me when, but this was the 14th the next morning I was to meet him at *Hart Street*, but did not.

Q. **Mr. Sol. Gen.** Who did he tell you the King was to be seized by?

Questions, nor I did not.

**Mr. Sol. Gen.** Did he name himself to be concerned?

**Bertram.** He named himself so far, as that he believed he should ride out very suddenly.

**Mr. Sub. Gen.** Was it the next morning, or the next day?

*Bertram.* I cannot say that he named any particular time.

**Mr. At. Gen.** Will they ask him any Questions?

Sir B. Shower. No, I think we shall not.

Mr. Mountagu. Pray, Mr. Bertram, will you answer me one Question? What did he say to you when he check'd you for not coming according to his Appointment?

Bertram. I took it as a kind of a check; he told me, that if the King had been in the Field, he believed I would have done the same.

Sir B. Shower. There is one thing we must a little Examine this Gentleman to: Were not you under a Necessity before that time that he gave you the Guinea? Pray What Condition were you in?

Bertram. Under Necessity, Sir! I was never very plentiful of money of late.

Q. **Sir B. Shaw.** Did he never give you a Guinea or two before in Charity, and out of Compassion to your Necessities?

*Bertram.* He has given me money several times before, and I believe if I would have ask'd him any money he would have given it me.

L.C.J. M. Take the Words as they are; he wold him better, Whether he  
could ingratiate in a Deity that might be for his Advantage; on Pity the right of

*Mr. At. Gen.* Was this money given you for Charity, or for any other, and what purpose?

*Bertram.* I did not ask him for any thing, but he gave it me, and said, There's a Guinea to buy you Necessaries.

*Mr. At. Gen.* What was the Discourse before that?

*Bertram.* I told you, he said, he believed they were to ride out very suddenly, and he believed the King was to be seized in his Coach, and he desired me not to be out of the way.

*Mr. Conyers.* And when he gave you the Guinea, to buy you Necessaries, was it immediately after this Discourse?

*Bertram.* Sir, it was at the same time.

*Lowick.* Did not I give your Wife a Guinea two months before this?

*Bertram.* Yes, Sir, I acknowledge I was informed you did, I was not in Town then.

*Lowick.* Pray let the Court know that.

*L. C. J. H.* Did he tell you, the King was to be seized in his Coach before he told you they were to ride out very suddenly?

*Bertram.* No, afterwards; and then he gave me the Guinea.

*Sir B. Shower.* His Words are not coupled together, they have no relation to one another.

*L. C. J. H.* No, but he told him, they were to ride out very suddenly, and the King was to be seized in his Coach, and gave him a Guinea to buy him Necessaries at the same time.

*L. C. J. Treby.* There's no doubt he was engaged in the Design with those other Persons.

*Mr. Conyers.* And afterwards he rebuked him because he had not met him; and he said, it would have been the same thing, if the King had been in the Field.

*Mr. Mountagu.* What day in the week was it that you failed him?

*Bertram.* It was on a Saturday.

*Juryman.* Pray, my Lord, we desire to know, who he did understand by the King that was to be seized?

*L. C. J. H.* What did he call the King?

*Bertram.* He said nothing but the King.

*L. C. J. H.* Who did you understand by that?

*Bertram.* Please to the Court, I cannot interpret Things.

*L. C. J. Treby.* Did he name the Prince of Orange, or King James? Did you think King James was to be seized?

*Bertram.* My Lord, I tell you what he said, I am not to interpret his Words.

*Mr. At. Gen.* Do you believe he meant King James, or this King, that was to be seized?

*Bertram.* I believed it might be the King here.

*L. C. J. H.* Take the Words as they are; he ask'd him before, Whether he would engage in a Design that might be for his Advantage; on Friday the 14th of February



February he meets him at his Lodging, and tells him, he was to ride out suddenly, and that the King was to be seized in his Coach, and appointed him to meet him the next morning, and gave him a Guinea to buy him Necessaries.

Mr. Mompeffon. Pray, has not Mr. Lowick given you Clothes, Linen and other Things at any other time?

Bertram. Sir, you have been always ready to serve me, I must acknowledge, and you have been very kind to me.

Lowick. If you please to give an Account of my Character, whether ever I was guilty of any bloody Thing.

Bertram. No, Sir.

Sir B. Shower. How long have you known Mr. Lowick?

Bertram. I believe I have known him this 20 years.

Sir B. Shower. What Behaviour has he been of?

Bertram. He has always had very good Behaviour, and the best; he has had the best Character of all Mankind.

Sir B. Shower. Did you ever know him inclined to do a rash Action?

Bertram. Never in my life.

Sir B. Shower. Did you ever know him do a malicious Action?

Bertram. But he had always the Character of a good Man, and was always ready to serve any Man in his Necessities, and to do Good; he has that General Character abroad.

L. C. J. H. Where does he live?

Bertram. He lived last at Brownlow Street, but he has no Wife nor Family, and so has no fix'd Being.

L. C. J. H. What was his way of Living?

Bertram. He was bred a Soldier, and has been abroad.

L. C. J. H. Where?

Bertram. In Ireland.

L. C. J. H. In whose Service?

Bertram. In the Service of King James.

Lowick. He knows particularly, that once I was upon a Party and saved Officers from being killed in cold Blood.

L. C. J. H. What Countryman is he?

Bertram. Yorkshire.

Mr. Mompeffon. Was he accounted of a cruel or a bloody Nature?

Bertram. No, of a quite contrary.

Furyman. My Lord, I desire to know for what Cause he gave him or his Wife a Guinea?

Bertram. He knows not what that Guinea was for that he gave me the 14th of February any otherwife than as I have told you.

Mr. Mompeffon. What was the Guinea given to your Wife for?

Bertram. For that Guinea given to my Wife, it was out of his own Kindness and Goodness to my Family and me.

Mr. At. Gen. What was the other Guinea for? You see upon your Oath.

Bertram. Indeed, Sir, I cannot tell, he gave it me to buy me Necessaries.

Mr. At. Gen. Was there nothing else mentioned what Necessaries those were to be?

Bertram. No, Sir, upon my Oath there was not any Particular mentioned.

Mr. At. Gen. What made him so kind to you, pray?

Bertram. We were both born in a Town, and I believe we are near Related.

Sir B. Shower. You say you are Towns People, and have been long acquainted, and you knew him in Ireland, pray did you ever know that he saved any People's Lives?

Ber.

*Bertram.* I was not in that Action my self, but all that were in it gave that Reputation that he was very favourable, and did save Peoples Lives, particularly one Captain Harlow, and brought him and others Prisoners, and I remember the thing; it was about a Fortnight before the business of the Boyne, upon a Sunday Morning, tiller they took those Prisoners, and he did perswade several Parties that he Commanded, to decline Killing, as much as they could; I was not in this Action, but this I heard of all that were in it, and from the Prisoner.

*Mr. Sells Gen.* When he gave you that Guinea, did not he speak any thing of a Horse that was to be provided for you?

*Bertram.* Not a word; I never did see a Horse upon that Account, nor was I Master of a Horse, nor was I told I should have a Horse in any respect whatsoever.

*Juryman.* How could you Ride out as you say they were to do, without a Horse, or without knowing any thing of a Horse to be provided for you?

*Bertram.* I did not know of a Horse.

*L. C. J. H.* But he said you were to Ride out speedily.

*Bertram.* No, he said in general, we should Ride out suddenly.

*Mr. Attor. Gen.* Who was there besides your self?

*Bertram.* No body.

*Mr. Attor. Gen.* Then that we must mean you and him. And how were you to Ride out without a Horse? Pray mind what you Swear?

*Bertram.* I was to meet him the next Morning, but did not.

*Mr. Attor. Gen.* Pray what cou'd you understand by that, that you were to Ride out suddenly, and had no Horse?

*Bertram.* That was understood, that if I did Ride out, I must have a Horse.

*Mr. Attor. Gen.* Who should you have it from, had you a Horse of your own?

*Bertram.* No, I had not.

*Mr. Attor. Gen.* Did you intend to Hire a Horse?

*Bertram.* No, I did not.

*Mr. Attor. Gen.* Did not you ask where you were to have a Horse?

*Bertram.* No, I did not Ask nor Inquire, nor was it promis'd me, I should have a Horse.

*Mr. Attor. Gen.* Did he tell you where you were to Ride?

*Bertram.* The next Morning I was to meet him.

*Mr. Attor. Gen.* For what, to Ride out was it?

*Bertram.* I can't really tell whether it was upon that Account or not.

*Mr. Attor. Gen.* Whether did he tell you where he was to Ride?

*Bertram.* Indeed he did not.

*Juryman.* It is very strange that you did not ask him where he was to go, nor ask him for a Horse.

*Bertram.* I was so Senseless, that I neither did ask him about a Horse, nor ever knew of any that was to be provided for me.

*Juryman.* Did you understand what was meant by the Riding out suddenly?

*Bertram.* I did take it to be about the business, the seizing of the King.

*Juryman.* Did he compare it to Attacking him in the Field?

*Bertram.* No, he did not; but he said he believed the King would be seized in his Coach; he made no Comparisons.

*Mr. Mountagu.* Pray Mr. *Bertram*, why did you not meet him, what Reasons had you for not doing it?

*Bertram.* I thought it not requisite to meet him.

*Mr. Mountagu.* What had you no mind to the thing?

*Bertram.* No, I had not, because I thought the thing very unlawful.

*Mr. Astor. Gen.* Pray what was that thing you speak of, that you thought was unlawful?

*Bertram.* I thought it was about Seizing and Killing the King.

*L. C. J. H.* Pray mind, there is no body desires you should speak more than the Truth, but on the other side, being upon your Oath, you are to speak the whole Truth; for if you Conceal any part of the Truth, tho' you have a Kindness for your Countryman Mr. *Lewick*, who has been kind to you, you will forswear your self, for you make a different Representation of the matter, and make it appear quite otherwise than it is; pray do not straine one Tittle, but let us have all the Truth.

*Bertram.* I don't believe, I straine one Bit.

*Mr. Mountagu.* Then tell my Lord, why did not you meet him.

*Bertram.* I did believe it was about Seizing and Killing the King, and I did think it to be Illegal.

*Mr. Mountagu.* Why did you think it was about that?

*Bertram.* Because Mr. *Charnock* had told me of it before.

*Mr. Astor. Gen.* How did you know that was what *Lewick* spoke to you about?

*Bertram.* I did suppose it to be the same, because he desired me at first to ask no Questions, no more did I, but I took it always to be the same thing.

*Mr. Astor. Gen.* What did he say to you?

*Bertram.* He told me he had a business to propose to me, if I would engage in, that would be for my Advantage, but I must ask no Questions; talk of Riding out suddenly, and that the King was to be Seized in his Coach and having heard of it from *Charnock*, I thought it was the same business.

*Mr. Astor. Gen.* Then my Lord, we have one Witness more, call Captain *Fisher*, [He did not appear.] If he does not appear, we shall let them go on, and when he comes in, we can examine him afterwards.

*L. C. J. H.* Is he a material Witness?

*Mr. Sol. Gen.* We do apprehend he is a very material Witness.

*L. C. J. H.* If you think him a material Witness, it will not be proper for them to enter upon their Defence, till they have heard the whole Accusation.

The Court said for Mr. *Fisher's* coming for near an Hour, and at last he came in, and was Sworn.

*L. C. J. H.* Who is this?

*Mr. Astor. Gen.* This is one Captain *Fisher*.

*Mr. Sol. Gen.* Pray Captain *Fisher*, do you know Mr. *Lewick*, the Prisoner at the Bar?

*Captain Fisher.* I have not Talkt with Mr. *Lewick* since the 8th of February, and then he Talkt that he would be ready to serve his Master to the uttermost of his Power.

*L. C. J. H.* What Master?

*Captain Fisher.* King *James*.

*Mr. Astor. Gen.* What particular Service?

*Captain Fisher.* He named no particular Service, but only that he would be ready to serve his Master to the uttermost of his Power.

*Mr. Astor. Gen.* Where was this?

*Captain Fisher.* At the Coach in Bow Street.

*Mr. Astor. Gen.* Who was in Company?

R

Captain



*Captain Fisher.* There was Mr. Harrison.

*Mr. Attor. Gen.* Pray give an Account of what you know of this Barbarous bloody Design.

*Captain Fisher.* I believe there was a Design to seize the Prince of Orange.

*Mr. Attor. Gen.* What do you know of it? you say you believe it.

*Captain Fisher.* I believe it by my Knowledge, because I was concern'd in it.

*Mr. Attor. Gen.* By whom was that Design carry'd on?

*Captain Fisher.* By Sir George Barclay and Mr. Harrison.

*L. C. J. H.* What was the Design?

*Captain Fisher.* We were to fall upon the Prince of Orange.

*L. C. J. H.* You called him so, the Prince of Orange?

*Captain Fisher.* Yes, my Lord.

*Mr. Attor. Gen.* Well, tell us what happened.

*Captain Fisher.* It was to have been done the 15th of February, and we met accordingly the 14th, but the King not going Abroad, it was put off.

*L. C. J. H.* Who met on the 14th?

*Captain Fisher.* I met only Mr. Harrison and Sir George Barclay, then it was put off till the 22th; upon the 21th, we met at the Three Tuns in Holborne, and from thence we came to the Sun Tavern in the Strand, and there was no body, but Mr. Harrison and I together, and Sir George Barclay came to us; I believe there were about 14 or 16 in the House; there Sir George Barclay told me, Mr. Lowick was to meet me and two more at an Inn by St. Giles's Pound, and that we were to go together to seize the Prince of Orange the 22th.

*L. C. J. H.* Did you meet him?

*Captain Fisher.* I did not meet him, it being put off by the King's not going Abroad.

*L. C. J. H.* This does not affect Mr. Lowick at all.

*Mr. Attor. Gen.* It does not, we acknowledge, but at that time which you speak of, the 28th of February, had you any knowledge of the Assassination?

*Captain Fisher.* There was no Assassination at that time, at least it was not then declared.

*Mr. Attor. Gen.* What was your Discourse about then?

*Captain Fisher.* There was Notice of the King's preparing to come for England.

*Mr. Attor. Gen.* You say Mr. Harrison was there.

*Captain Fisher.* Yes, and Talk'd very little about the matter, but only that there were Preparations for the King's coming.

*Mr. Attor. Gen.* What did Lowick say to you?

*Captain Fisher.* I have told you all that Mr. Lowick said to me.

*Mr. Attor. Gen.* Repeat it again.

*Captain Fisher.* He said he would be ready to serve his Master, to the uttermost of his Power.

*Mr. Cowper.* Had you no discourse about an Act of Parliament.

*Captain Fisher.* Mr. Lowick said it was not convenient to Talk with more than one at any time, for there was an Act of Parliament on Foot, that under two Witnesses nothing should affect a Man's Life in Treason.

*Mr. Attor. Gen.* The Act of Parliament was then a making.

*L. C. J. H.* When Mr. Lowick said he would serve his Master, what Discourse had you about it?

*Captain Fisher.* Mr. Lowick said not a word within, but at the Door he said he would serve his Master to his Power.

*Mr. Attor. Gen.* What was that, that they won't Talk with above one at a time?

*Captain Fisher.* Nothing that was thought Reasonable Practices shou'd be Discour'd of before above one at a time, so I understood it.

*Mr. Sol. Gen.* Then my Lord we have done.

*Sir B. Shower.* May it please your Lordship, and you Gentlemen of the Jury;

I am

I am of Counsel in this case for the Prisoner at the Bar, and we do hope here is not Evidence sufficient to convict him of High Treason, the Question is not whether there was a Plot or a Conspiracy to Assassinate the King, or to prepare for an Invasion, but all that you are to consider, Gentlemen, is, whether the Evidence against Mr. *Lowick*, be sufficient to convince you, that he did design to Seize and Assassinate the King; there are three Witnesses produc'd, but we think this last Witness, *Fisher*, his Testimony does not hurt him in the least. We know your Lordship will Declare and Direct the Jury, that the Evidence in a case of Treason ought to be plain, not only with respect to the Fact, that it was done; but also of such Facts as are the Evidences of a man's intentions, and those are not to be Construed by Strains and Intendments, or Implications; unless they be such as Evidently, Naturally, and to common Understanding express the Intention, it cannot be good Evidence in Treason: Now we say that Captain *Fisher* has said nothing at all that will affect the Prisoner, for all that he says is, that the Eighth of February he said he was ready to serve his Master to the utmost of his Power, and any words as well as these may be Construed to make a Man Guilty of Treasonable Intentions; for it might be a Recollection of Favours Received, or it might be a Grateful intent to serve him upon particular occasions, but that is no Evidence upon this Indictment. Suppose it was to serve him upon the supposed intended Invasion, yet with submission, that is not Evidence of the Overt Act laid here; here is no Overt Act mentioned of preparing Arms, or Encouraging Men, or Seducing the King's Subjects in order to the better restoring of the late King *James*, or the expected Landing of the French, or the like. All that's laid to the Prisoner's charge, is the Compassing the King's Death, and a Design to Assassinate him in his Coach; and in order to the Assassination, he was to buy Arms and Horses; now all that he says is quite of another Nature, of a quite different Strain, and has no tendency to this matter, and nothing he says that *Lowick* shou'd say, but is applicable the other way, and tends more Naturally to the Invasion, then to the Assassination. Your Lordship observes there was some notice taken of what Mr. *Lowick* shou'd say, concerning the Act of Parliament, that he would not talk with above one at a time; how far when life is concern'd such loose discourse ought to be forc'd before a Jury I must leave to your Lordship; tho a Man may be Innocent, yet he may be Cautious, and the more Innocent, perhaps the more Cautious; but that is applicable to the Invasion too, and has no Relation to the Treason in this Indictment more than any other. It shows he was more wary then others were, but it is not applicable to the Fact that he now stands charged with. Then the whole of the Evidence depends upon the Testimony of Mr. *Harris* and Mr. *Bertram*, and we think they are not two Witnesses to one thing, and what they say must be strained, and intended, and presumed, to make Evidence of Treason; for what Mr. *Harris* says about the Discourses between him and the late King *James*, about Receiving Orders from Sir *George Barclay*, and his passage over from France, and the several Stages he and Mr. *Hare* travel'd, and the Discourses between Sir *George Barclay* and him; Your Lordship will acquaint the Jury that is no Evidence to affect Mr. *Lowick*, nor what *Berkenhead* and *Hare* agreed upon does any way affect Mr. *Lowick*, for those things may be all true and yet Mr. *Lowick* innocent of what he stands charged with in this Indictment; he says, that upon the first Saturday he saw Mr. *Lowick* at the Confectioners, but he cannot say he staid there at all, there was not a word spoken by Mr. *Lowick* that he remembers then, but what he says that seems to touch, and the only thing that touches Mr. *Lowick*, in all this Evidence is, that that upon Monday, Tuesday, Wednesday or Thursday, it is a pretty large time, between the Fifteenth and the Twenty second, he was talking with Mr. *Lowick* about the Barbarity of this business, and that *Lowick* after all, said he would obey Orders; now with submission, my Lord, to make that to have Relation to the Assassination must be by a forc'd strain'd Intendment; he does not Declare what the Orders were, nay, he does not affirm there were any Orders for the Assassination

nation, but only that he would obey Orders; here's no Order by Writing, no Order by Parole that Mr. Lowick declared he would obey: as to what Lowick declared about his Intention of Riding out and Seizing the King in his Coach; that cannot be intended the Order that he was to obey to Assassinate the King, that Order does not appear, there are no footsteps of it in all the Evidence, so that there is nothing in that Testimony that will hurt Mr. Lowick: Then upon the Two and Twentieth when they Dined together, Mr. Harris says, that there was a Discourse of two Men, but it does not appear, nor does the Witness give any account what those two Men were to be for, 'tis true two Men he was to get Discharg'd, but that is not Evidence that these Men were to make a Part of those Forty, neither the words before nor the words after can have that Constrution; nay it does not appear it was for any purpose at all, now in the case of Life, where a Man stands at the Bar, we hope such an Evidence shall not be Construed to make a Proof of a Treasonable intention, that these were to Assassinate the King, or to make part of the Forty that were to do it, when it does not appear they were there, nor who they were, nor any sort of Notice taken or given upon what account they were, Provided. And then as to Mr. Bertram's Evidence, it is Palpable that his Evidence and whatsoever he says cannot amount to make one Witness to prove an Overt Act within this Statute, and that there must be two Witnesses the Law requires; what does Mr. Bertram say to prove any Man Guilty of Treason, but only by Intendment, Thought or Suspicion? It is true, Mr. Bertram's Evidence would be good enough to commit a Man upon Suspicion for Treason, but to Convict him it cannot be; he says that in the begining of February he spoke to him and, told him he would imploy him in a business that would be for his Advantage, but he must ask no Questions; this is very dark, for the meaning of it does not appear what was intended by it; it might be one thing as well as another, it might be to imploy him in his Family, or it might be to send him of a Journey, or it might be the taking of a Farm, but to apply that as an Evidence of a charge of High Treason, that we think is very hard, and we hope your Lordship will think so too; but then he comes and tells you further of a Discourse upon the Fourteenth, of his Riding out suddenly, and that the King was to be seized in his Coach, but he does not say that he was to seize him, nor that he would be concern'd in it, nor that he knew of it, nor did Declare at what time it was to be done, nor any thing certain whether it was a Prophecy, or a Dream, or a Story that he related again, or what it was; there is no Connection between the Riding out suddenly and the other words of seizing the King in his Coach; then he says he gave him a Guinea to buy him necessaries, the Man acknowledges Mr. Lowick several times had given him in Charity Money, Cloaths and other things, and gave his Wife a Guinea, as you observe, in Charity, but he gave him this Guinea on purpose to buy him necessaries, and it is hard that a Man's Charity to a Countryman, to a Townsman, to an ancient acquaintance of Twenty Years standing, to a Person that he had been familiar with formerly, and known to have lived well, should be misinterpreted and strain'd, to make it a giving him Money as Subsistence, and a Reward for the doing such a Mischievous Bloody Act; We say his Charity to this Man formerly is inconsistent with the Supposition that he cou'd be Privy to such a Barbarous Design now, and we hope the Jury will consider the Character that that very Man has given to my Client, for the same Witness gives you an account of his Behaviour all along, that he was not given to Rash and Barbarous Actions, nor Guilty of any Malicious thing, nay, that he prevented Mischief and the Killing of People in cold Blood: We must leave it to the Jury's Consideration, and your Lordships Direction. All these things that they say may be true, and Lowick be not Guilty, and the acquitting of Mr. Lowick will be no Reflection upon the Witnesses, nor any discredit to the Testimony that has been given of this Conspiracy, but we hope 'tis doing Justice to this Man, the Witnesses not coming up to the Proof of what is laid in the Indictment. We must beg your Lordships patience a little longer



longer, and call some Witnesses to give you an account how long they have known Mr. Lowick, and what his real Character is; they will tell you he is a peaceable good Man, and shew you that his Temper and Inclination was rather to a sober quiet Life than to lead him to such action, and that they cannot think him likely to be tempted to be concerned in such a Design; and then we must leave it to the Jury. Call Mrs. Yorke.

Lowick. I believe there is no body here that knows me but will give me that Character.

*Mrs. Yorke came in and was Sworn.*

Sir B. Shower. Pray Mrs. Yorke how long have you known Mr. Lowick.

Yorke. About a Dozen or Fourteen Years.

Sir B. Shower. What sort of Disposition is he of?

Yorke. He is a Civil Honest Man as ever I saw in my life, or ever knew of; and I never heard otherwise from any one that knew him.

Sir B. Shower. What was he in his Actions, was he Malicious, or good Natured?

Yorke. As good a Natured Man as ever I saw.

Mr. Mompesson. Has he the Reputation of a Cruel Bloody minded Man?

Yorke. Quite the contrary. He lodged in my House half a year, it is not quite a year ago since he lay at my House. He was the most Obliging Man that ever lay in my House: he was so Civil to all the Lodgers that they admired him for his goodness, and made them in love with him.

L. C. J. Holt. How came he to Lodge at your House?

Yorke. He came from his other Landlady, they could not agree, his other Landlady was a sort of a Shrew, and therefore he did not care for staying there; and I desired his Company because I knew him to be so Obliging and Civil a Man.

L. C. J. Holt. Where is your House?

Yorke. In Bloomsbury.

L. C. J. Holt. What is his way of living, is he a Man of an Estate?

Yorke. I cannot tell, I did not inquire into that.

L. C. J. Holt. Had he no Employment to get his Living by?

Yorke. I do not know any thing of that, I never inquired into it; he paid me very Honestly for my Lodging, and he is a very good Man for any thing I know.

Sir B. Shower. Then call Mrs. Mosely.

*She came in and was Sworn.*

L. C. J. Holt. Well, what do you ask this Gentlewoman.

Sir B. Shower. Pray Mrs. Mosely will you tell my Lord and the Jury: do you know Mr. Lowick?

Mosely. Yes Sir, I do.

Sir B. Shower. How long have you known him?

Mosely. Near twenty Years.

Sir B. Shower. Pray give an account upon your knowledge what Disposition and Temper he is of, whether he is Rash, Malicious, Bloody, and ill Natured.

Mosely. He is a Peaceable, Vertuous, Honest Man, and a Man that I never heard or saw that Creature that could speak any ill thing of him in my life; nor I never heard him speak any thing Maliciously of any Creature in my life to do them a prejudice: so far from that, that he is a Man has a Character, perhaps, above any Man that I could speak or hear of in my life. I speak it even above my own Relations, they may have some Passions; but I never see that Gentleman in a Passion in my life. He has lain in my House several times, and he has had Company come to him, but never any that was Scandalous one way or other. I never saw him Fuddled; nor ever heard him Swear, nor any one accuse him of any of those things.

Mr. Mompesson. Call Dr. William Mew; He did not appear.

Sir B. Shower. The Prisoner has something to say for himself my Lord, but we must submit to your Lordships Consideration, and the Juries, whether there be any Evidence but what is dark and favours of Suspicion only; Suspicious it is, but whether there be any Evidence that is plain and direct as the Law requires in Cases of High Treason, we must leave it to your Consideration, for we apprehend there is none.

*Lowick.* My Lord, as to this Business, the thing that I stand accused of, the Assassination, I know nothing in the World of it, nor never did directly or indirectly; and if I am Convicted, and could to save my life be the death of the poorest Child in the World, I would not save my life to do it.

*L. C. J. Holt.* Look you, I would put you to make answer to some things; you were at *Sir George Barclays* at the Confectioners in *Holborn*: and it is sworn he came over upon such a Design. Then you were with *Mr. Harris* at *Red Lion Fields*, and there he was speaking to you of the horridness of the Design that was to be Executed upon the Kings Person the *Saturday* before, and he told you he did dislike it; and thereupon you answered that you would obey Orders, and that *Sir George Barclay* had Orders for it, otherwise he would not do it.

*Lowick.* *Sir George Barclay* never spoke one word of it to me.

*L. C. J. Holt.* Every body knows now upon what Design he came over from *France*, and when *Mr. Harris* showed this satisfaction with the thing, you made that answer to his Discourse.

*Lowick.* He never said one Syllable to me of it. I trust to your Lordships Judgment, and the Jurys Mercy.

*L. C. J. Holt.* And then I would have you answer to another thing, when you Dined together on the *Saturday* the two and twentieth, what were those two Men that could not be Discharged without you?

*Lowick.* My Lord, I know nothing in the World of two Men.

*L. C. J. Holt.* You went to Discharge them, for the King did not go abroad that day.

*Lowick.* I know nothing of it.

*L. C. J. Holt.* He Swears this, and that's as to him; but then as to *Bertram*, what Design was that, that you were to ingage *Bertram* in for his Advantage, and he was to ask no Questions?

*Lowick.* My Lord, He is a poor Man, and my Countryman, and I have at all times, from time to time, for this seven Years, helped to Subsist him and his Family, that he will not deny, and I have several times given him both Cloths and Money.

*L. C. J. Holt.* Then I would ask you again, When he came to your Lodging on *Friday* the Fourteenth of *February*, and you told him the King was to be seized in his Coach, and said that we were to Ride out very suddenly, and you appointed him to meet the next Morning; and because he did not meet you blamed him, and said it would have been the same thing, if the King had been in the Field? Look you, I would have you give answer to this if you can.

*Lowick.* I remember nothing in the World of it, not a word I assure you, and to the best of my remembrance I did not see him in two days after.

*Mr. Att. Gen.* My Lord, I must beg leave to Answer to the Objection that the Counsel for the Prisoner have made, that there are not two Witnesses to prove the Overt-Act laid in the Indictment, and so the Law is not satisfied. In Answer to that, I desire your Lordships favour to observe how the Evidence is, and then we shall see whether there are not plainly two Positive Witnesses of the Overt-Act, by agreeing to Assassinate the King. The first Witness is *Mr. Harris*, Your Lordship observes that *Mr. Harris* gives an account that *Mr. Lowick* was at *Sir George Barclay's* Lodgings the first day that it was to have been Executed; and that afterwards between the Fifteenth and the two and twentieth, those being the first and second Days that this was to be done, when he and *Rookwood*, and the Prisoner *Lowick*, were walking together in *Red Lion Fields*; and there had some Discourse about the intended Assassination, and the Barbarity and Bloodiness of it, and *Mr. Harris* and *Mr. Rookwood* were averse to it. *Mr. Lowick* said he would obey Orders, and he was sure *Sir George Barclay* would not do it unless he had direct Orders for it, that was twice Repeated by him, as *Harris* Swears: and afterwards *Mr. Harris* tells you that the Two and Twentieth he Dined with *Mr. Lowick*, and *Mr. Lowick* observed that *Mr. Harris* came in in a great Sweat, and asked him how it happened, he said he had been about to get ready *Rookwood's* Party that were to seize the King, for he was to have one Party. Says *Mr. Lowick* to him, you need not Grudge to do it, you have six Shillings a day, I have

have nothing; and yet I, at my own Charge, am to provide two. This is as Positive Evidence as well can be of his being privy to the Design; and his ingaging People at his own Charge, shows a great deal of forwardness and Zeal in the Prisoner to the Business. My Lord, I think this is positive and plain Evidence, and not only made out by Inferences and Constructions, as Sir B. Shower says, but plain positive Proof. The first day he was with several of them, and when they Discourled of the thing afterwards, he declared he would obey Orders; and what could those Orders be but for what they were Discourling of, and nothing was Discourled of but this Design they were ingaged in, and this was to justify the thing, and take off the apprehension of the Barbarity of it: this is *Harro's* Testimony. The next Witness is *Bertram*, and he tells you that the Fifth of February the Prisoner sent for him, and when he came to him, he asked if he would Ingage in a Business that might be for his Advantage, and ask no Questions: so at that time he did not acquaint him what the thing was, but that shows it was a thing that was to be kept Secret at that time, in regard he did not think fit to acquaint him at the first Instance. But the Fourteenth of February, when he met him again, the day before the first time that it was to be put in Execution; *Bertram* Swears he told him that they were to Ride out the next Morning, that must be *Lowick* and *Bertram*, for there was no Body else there; and that the Prince of Orange was to be seized in his Coach. Was it possible the Prisoner could be ignorant of it? When he ingaged him to go upon a Design without asking Questions; sent for him the day before, acquainted him they were to Ride out the next Morning, and that the King was to be seized in his Coach, and bid him be ready against next Morning, and gave him a Guinea at that time; the Witness says it was for Necessaries, but he does not pretend that it was for Charity, as formerly. And that must be for Necessaries for that purpose that they were then Discourling of, when he desired him to be ready the next day, and gives him Money to buy him Necessaries: What can that be, but Necessaries for what he was to be ready for? And then he did not come the next day, and he tells you why, because he thought it a very wicked and unlawful thing, and so he disappointed him; and the next time *Lowick* Chid him, and told him he would have served him so if the King had been in the Field. This is plain, though I believe *Bertram* does Speak as tenderly as he can, being his Friend and old Acquaintance, and is willing to say as little as he can of him; so that I believe no body thinks but what *Bertram* says against the Prisoner is true, and what he Swears is plain and positive. To show that *Lowick* did ingage in the Design, he acquainted him with it the Fourteenth, by telling him the King was to be seized, and they were to Ride out, and he was to be ready the next day.

*L. C. J. Holt.* He does not say they were to Ride out the next day.

*Sir B. Shower.* No, the words were we are to Ride out suddenly.

*Mr. Att. Gen.* I think he did say they were to Ride out the next Morning.

*L. C. J. Holt.* No, Call him in again.

*Mr. Cowper.* The Words were, we shall Ride out suddenly, and bid him meet him next Morning; and afterwards Chid him for not meeting accordingly, and told him it had been the same thing if the King had been in the Field.

*L. C. J. Holt.* If you cannot agree upon the Evidence, you must call in the Witnesses.

*Mr. Mountague.* My Lord we are agreed upon the Evidence, it was suddenly.

*L. C. J. Holt.* Well then, there is no occasion, have you done on both sides.

*Counsel.* Yes my Lord, we submit it to your Lordship.

*L. C. J. Holt.* Gentlemen of the Jury, this Prisoner at the Bar, *Robert Lowick*, is Indicted of High Treason, for Compelling and Imagining the Death and Destruction of the King by an Assassination; you have heard what Evidence has been given upon this Indictment. And in the first place, It is proved to you that there was a Design to Assassinate the King; which was to be carried on under the Conduct and Management of *Sir George Barclay*. The Question that you are now to Consider of, is whether the Prisoner at the Bar was concerned or ingaged in the Prosecution of that Design. There have been two Witnesses produced, who have given their Evidence, and have been very strictly Examined, and Observations have been made upon the Testimony they have given. The



The first Witness is Mr. *Harris*, and he gives you some account of the Original of this Design. He tells you how he was at *St. Germain*, and Introduced to the late King *James*, who did express a great kindness for him, and told him that he had an Opportunity of doing something for him that would be for his Advantage: and that he and one *Hare*, who was present at that time, should go into *England* (for it seems they were both together Introduced by Colonel *Parker*) and should be Subsisted in *England*, and thereupon Directions were given them what Course they were to take; which was to go to *Calice*, and to each of them ten *Livres* were given for their Charges, and they were acquainted that if it happened that they should lie there so long for want of a Wind to bring them over hither that their Money was spent, Provision should be made for their supply there. They had farther Directions, that when they came into *England* they should apply themselves to Sir *George Barclay*, and follow his Orders, with Instructions how to find him; being told that Sir *George Barclay* would be walking in *Covent Garden* every *Monday*, and every *Thursday Night*, about the hours of six or seven a Clock, and that they should know him by a White Handkerchief that was to hang out of his Pocket.

Mr. *Harris* further tells you, That they did come to *Calice* in order to Embark for *England*, and there they happened to stay a considerable time, even so long that their Money would not defray their Expences there, and they found it true as it was promised them; for the President of *Calice* paid the Reckoning for them at the place where they Lodged; and afterwards they came into *England*, and landed in *Kent*, and came to *Rocheester*, and from thence to *London*. About the latter end of *January* Old *Stile* (for it should seem it was the 14. *New Stile*, which is the 4. *Old Stile*, they were of *St. Germain*) he tells you that he did go the first *Monday*, after their arrival, into *Covent Garden*, to look after Sir *George Barclay*, but then mist him. But afterwards his Companion, Mr. *Hart*, met with one *Berkenhead*, and complaining that they had not met with Sir *George Barclay* according to the Directions they had abroad: whereupon, by the means of *Berkenhead*, they were brought to the Speech of Sir *George Barclay*, who gave them reception, and owned that he had Authority to Subsist them; but said he had not then Money, but shortly should, and when he had they should be sure to receive their Subsistence. He tells you, that after this, Sir *George Barclay* gave them Subsistence Money, paying them at the Rate of five Shillings a day when they had no Horses, and when they had, six Shillings a day: so they put themselves altogether under his Command and Conduct. He has given you an Account what Discourse he had with Mr. *Rookwood*, from whom he discovered what the Design was in which he was to be engaged. And the Design to Assassinate the King was first intended to be put in Execution on *Saturday* the 15. of *February*, at which day Mr. *Harris*, and others, being at Sir *George Barclay*'s Lodgings; Sir *George* said they were his *Janissaries*, and afterwards Caret for them, and said they were Men of Honour, and told them that they were to Attack the Prince of *Orange* and his Guards; but it seems the King not going abroad that day, they lost that Opportunity.

Truly, Then Mr. *Harris* began to be a little troubled, and concerned, when he understood the meaning of his being under Sir *George Barclay*'s Conduct. And he says that after that first *Saturday* the 15. and before the next *Saturday* the 22. he met with *Lowick*, *Rookwood*, and *Bernarde*, and he was complaining of his being engaged in such a Design as this was. He called it then the Murder of the Prince of *Orange*, and said it was a Barbarous thing, and he did not like it, nor *Rookwood* neither; but as for Mr. *Lowick* whether he disliked it or no, I know not, but he made Answer to him I will obey Orders: says he Sir *George Barclay* has Orders for it, or otherwise he would not do it.

Then you are told further, that after this, on *Saturday* the 22. Mr. *Harris* Dined with *Lowick* at a Cooks at the end of *Red Lion Street*, and being there together, *Harris* being in a Sweat, and was asked the reason by *Lowick*, he said he had been giving of Orders for the getting some Men together that were to go under *Rookwood*, and *Lowick* told him he might very well do it, for he had Pay 6 s. a day; but says he, I am to Subsist two Men, and have nothing at all. Mr. *Harris* wished him to go to Sir *George Barclay*, and Complain of it to him, but he said he would not; but it seems, it being then understood by them that the King did not go abroad that day, *Lowick* said he must go and Discharge the two Men, and went about it. This is the Sam and Substance of Mr. *Harris*'s Evidence against Mr. *Lowick*.

The next Witness is *Bertram*, and he tells you that sometime before the Fifteenth of *February*, which was, as I told you, the very first day that they did design to assassinate the King, *Mr. Lowick* sent for him, and told him, that he would put you upon a Business that shall be for his Advantage, if he would undertake it without asking any Questions, this was sometime before, but the certain Day *Bertram* does not remember; but he tells you farther, that on *Friday* the Fourteenth of *February*, he was with *Lowick* at his Lodgings, and he said unto him, that the King, he did believe, was to be seized in his Coach, and we are to ride out suddenly, and then he gave him a Guinea to buy him Necessaries, and withal, bid him meet him at the *Parl-House* in *Hart-street* next Morning; and *Bertram* tells you, he had understood what this Design was, for he had it before from *Chernock*, and did forbear to go the next Morning, because he did dislike it. After this *Mr. Lowick* met him and chid him for disappointing of him, in not meeting him as he directed, for says he, it would have been the same thing if the King had been in the Field: This is the sum and substance of the Evidence that *Bertram* has given against him.

Now *Bertram*, being cross-examined on the behalf of the Prisoner, says he hath known him a great while, and that he is a Man of a peaceable and fair Disposition, very charitable, and that he has given him Money before, and particularly a Guinea to his Wife in his absence.

Indeed I might have mentioned the Evidence of *Fisher* to you, but that is but circumstantial, and does not come home to the Case, but being given it may be mention'd, and that is, about the Eighth of *February*, *Fisher* had some Discourse with *Lowick*, and it seems there was notice taken of the intended Invasion, and *Lowick* said he would serve his Master faithfully; and that the Witness thought was meant of the late King; and he said at another time, that he would not discourse with above one at a time, because of the late Act of Parliament that was then a passing, relating to High-Treason, that required two Witnesses. Now, I say, this is not any Proof against the Prisoner, but it is a Circumstance that may shew his Inclination to the late King.

The Council for the Prisoner have insisted upon the Insufficiency of the Evidence that has been given on behalf of the King, and have said, that the late Act of Parliament requires two Witnesses, which is true, but not two Witnesses to any one Overt-Act; but if there be two Witnesses, one to one and another to another Overt-Act, that is sufficient; but they say that it is not so in this Case. In the first place they object against the Evidence that is given by *Harris*, they say it is short, that must be left to your consideration; whether the Evidence that is given by *Harris*, concerning *Mr. Lowick*, does prove to your satisfaction, that he consented and agreed to the Assassination of the King, you are to weigh the Evidence, when it is sworn that when *Harris*, *Rookwood*, and the Prisoner were walking in *Red-Lyn-Fields*, and talking of this horrid Design, and *Harris* complained that it was a barbarous thing to murder the Prince of *Orange*, as they call'd him, you must consider what Answer *Lowick* did make about obeying of Orders, then his subsisting of Men at his own charge without Pay, and complaining of his having no Pay, and his discharging them the last day that the Assassination was intended, that I must leave to you, whether or no this is not an Evidence, if you believe the Witness, to satisfy you that he was engaged in this Design.

Then Gentlemen he has also been desired to give an Answer to this Question, and to tell upon what Design he was to employ *Bertram* that should be for his advantage; but he was to ask 10 Questions, and afterwards whether he did tell him the King was to be seized in his Coach, and they were to ride out suddenly and bid him meet him the next Morning, and when he did not meet him, he said it would have been the same thing if the King had been in the Field. If this be an Evidence of *Mr. Lowick's* engaging in and agreeing and consenting to the Design, then here will be another Witness against the Prisoner besides *Harris*.

Gentlemen, you are to judge of this matter and of the Evidence. It is true, we are not to put, in the case of a Mans Life, any forced and violent Constructions upon any Words or Discourses; but if the Evidence be plain and clear, tho he did not say in express Words, that he did design to assassinate or kill the King; yet, if upon the whole Discourse that pass between them it appears plainly, clearly, and satisfactorily to you that he did consent and agree to this Design, or was engaged in it, there's another Witness, I say, to prove him guilty, besides *Harris*, you are to consider the whole Evidence, the subject matter of Discourse, and if you are satisfied, I say, that he was engaged in such a Design by the Proof of *Bertram*, as well as of *Harris*, then there are two Witnesses, which is as much as the Law requires.

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But, indeed, the Council have called several Witnesses to prove that the Prisoner has lived very peaceably and quietly; one Woman says she has known him Twelve Years, and that he lodged at her House, and that he was a Man of great Temper and Candor, and not disorderly; but had a general good Esteem and Character: And then there is another, Mrs. *Mofely*, that proves the like, and says, she has known him these Twenty Years, and she says no Man has a better Character: And Mr. *Bertram* hath said that he was not of a rash or bloody Temper.

Now Gentlemen, I must leave it to you upon the Evidence that you have heard, there are these Witnesses that have been produced, and there are these Circumstances that appear in the Case; if you are satisfied upon this Evidence that has been given, that the Prisoner Mr. *Lowick*, did consent to and engage himself in that Design of assassinating the King, then you are to find him guilty; if you are not satisfied, you are to find him not guilty; you have heard your Evidence, and had best consider of it.

*Then an Officer was sworn to keep the Jury, who withdrew, and staid out about half an hour, and then returned.*

*Cl. of Arr.* Gentlemen of the Jury answer to your Names.

*George Ford:*

*Mr. Ford.* Here, &c. *And so of the rest.*

*Cl. of Arr.* Are you all agreed of your Verdict?

*Jury.* Yes.

*Cl. of Arr.* Who shall say for you?

*Jury.* Foreman.

*Cl. of Arr.* *Robert Lowick*, hold up thy hand. (*Which he did*) Look upon the Prisoner, how say you? Is he guilty of the High-Treason whereof he stands indicted or not guilty?

*Foreman.* Guilty, my Lord.

*Cl. of Arr.* What Goods or Chattels, Lands or Tenements had he at the time of the Treason committed, or at any time since?

*Foreman.* None, to our knowledge, we do not find any.

*Cl. of Arr.* Then hearken to your Verdict, as the Court hath recorded it. You say that *Robert Lowick* is guilty of the High-Treason whereof he stands indicted, but that he had no Goods, Chattels, Lands or Tenements at the time of the High-Treason committed, or at any time since to your knowledge, and so you say all.

*Jury.* Yes.

*L. C. J. Holt.* Discharge the Jury.

*Cl. of Arr.* Gentlemen of the Jury, the Court discharges you, and thanks you for your service.

*L. C. J. Holt.* Mr. Attorney, Will you have the Prisoners set to the Bar?

*Mr. Attor.* Yes, if your Lordship please.

*Then the Keeper of Newgate brought Rookwood and Cranburn, and all three were set to the Bar.*

*Mr. Att. Gen.* If your Lordship please to give Judgment against the Prisoners that are convicted.

*L. C. J. Holt.* Ask them what they have to say for themselves in arrest of Judgment.

*Cl. of Arr.* *Robert Lowick*, hold up thy Hand; you stand convicted of High-Treason, in conspiring the Death of the King by Assassination, what can you say for your self why the Court should not give Judgment against you, to die according to Law.

[*Then the Keeper bid him kneel.*]

*L. C. J. Holt.* No, no, he need not kneel; if you have any thing to say, Mr. *Lowick*, we will hear you.

*Lowick.* I throw my self upon the Kings Mercy.

*Cl. of Arr.* *Ambrose Rookwood*, hold up thy hand, (*which he did*) you stand convicted of the same High-Treason, for conspiring the Death of the King by Assassination, what can you say for your self why the Court should not give you Judgment to die according to the Law.

*Rookwood.*



*Rockwood.* All that can be said has been said already, and so I shall say no more.

*Cl. of Arr.* *Charles Cranburn*, hold up thy Hand, thou standest convicted of High-Treason, in conspiring the Death of the King by Assassination, what canst thou say for thy self, why the Court should not give the Judgment to die according to Law?

*Cranburn.* I have nothing to say but what I have said already.

*Cl. of Arr.* Then Crier make Proclamation:

*Crier.* O, yes, all manner of Persons are commanded to keep silence while Judgment is in giving, upon pain of Imprisonment.

*L. Ch. J. Holt.* You the Prisoners at the Bar, *Robert Lowick*, *Ambrose Rockwood*, and *Charles Cranburn*, you have been indicted, and upon full and clear Evidence have been convicted of High-Treason; a Treason that was advanc'd to the highest degree both of Malice and Mischief against the King and Kingdom; you design'd to assassinate the King with an intent to subvert the State, and by the introducing of a foreign Power to destroy the ancient Liberty and Constitution of *England*.

Our French and Popish Enemies, by whom you were employed in this bloody Enterprize, did very well know, that the Wisdom and Courage of his present Majesty has rescued this Kingdom from that Slavery and Oppression which they often threatened to bring upon us; they knew that under his Government we have been protected in the enjoyment of our Religion, Laws and Liberty for several Years, and that his Majesty is the Head of the Protestant Interest, and the Protector and Preserver of the Liberty of *Europe*, and that upon the Preservation of his Life and the Safety of his Person, the Good and Happiness of multitudes of People do depend, which the French King's Pride and Ambition has been ready to take hold of any opportunity to enslave and oppress.

Your being engaged in such a horrid Design against so precious a Life, and to be the bloody Instruments to give that dismal Stroke, which would have brought Misery and Desolation upon so many Men, renders you worthy to undergo a greater and more severe Punishment than by the Law of *England* can be inflicted; but that there is no greater provided for such Criminals, is to be imputed to the ancient Honesty and Integrity of English Men, who, when they fram'd this Constitution of Government, never imagin'd *England* should produce such degenerate Wretches, as would endeavour by Plots and Contrivances to betray their Country to a foreign Yoke, and subject themselves and their Fellow-Subjects to the slavish Dominion of Strangers.

Your Crime being so great it is now high time for you seriously to reflect upon it; and tho you deserve to suffer the greatest of Punishments, yet I have that Compassion for your Persons, that I wish heartily you would make use of that Opportunity which is now put into your Hands, to repent. And since you are adjudg'd by the Law unworthy to live here, that you will make preparation to appear at another Tribunal, where you must have another Tryal, and without an hearty and sincere Repentance, receive a more severe Sentence. I hope this Calamity, and the Judgment that is to fall upon you, will be an Admonition to you to take better advice in the last part of your time which is left you, than you have done in the whole course of your Lives, and that you will be wiser than to follow the Direction of those Guides whose Principles and Doctrines have so far perverted and corrupted you, as to engage you in such a bloody Design. I shall leave you to make that Preparation for another World, which is proper for Men in your condition, and pronounce the Judgment of the Court, which the Law hath appointed and the Court does award;

That all of you be conveyed from hence to the Prison from whence you came, and from thence every one of you is to be drawn upon a Hurdle to the place of Execution, where you are to be hanged by your Necks, and to be cut down while you are alive, your Privy Members are to be cut off, and your Bowels to be cut out of your Bodies and burnt in your view, your Heads are to be cut off, and your Bodies to be divided into four parts, and your Heads and Quarters are to be disposed where his Majesty shall appoint. And I pray God to have Mercy on all your Souls.

*Cranburn.*

*Cranburn.* I humbly desire the liberty of my Wife and Relations to come to me, and such Divines as I shall desire may have free recourse to me.

*L. Ch. J. Holt.* You shall have that liberty that is allow'd to all Persons in your condition.

*Rookwood.* I must beg the same Favour, to have some few Friends and Relations come to see me without a Keeper.

*L. Ch. J. Holt.* You shall have a Warrant for your Friends to come to you.

*Rookwood.* I beg your Lordship that you would please to specify it in the Warrant, because they would not grant hitherto without a Keeper being by.

*L. Ch. J. Holt.* You mean, you would have your Brother permitted to come to you.

*Rookwood.* Yes, and some few Relations.

*L. Ch. J. Holt.* What is usually done in such Cases let it be done.

*Lowick.* My Lord, I desire the same thing, that my Sister may come to me, and that the little time I have I may be private with my Friends.

*Mr. Att. Gen.* If your Lordship please, they may give the Names of those they would have admitted to them, and then the Keeper will attend your Lordship for your Direction.

*L. Ch. J. Holt.* That the Keeper must take care of, lest they allow such a Liberty as may indanger an Escape; for their being alone may prove a dangerous thing.

*Mr. Att. Gen.* It is reasonable they should tell who they are, before they be admitted.

*L. Ch. J. Holt.* You allow them, I suppose, to have private Discourse in the same Room, if a Keeper be by.

*Cranburn.* No, my Lord, we never had.

*Mr. Att. Gen.* Such as your Lordship thinks proper to be admitted to them may have Discourse with them in private, if the Keeper be in the Room, but no others but such as your Lordship shall allow; for we know what has been the effect of a Liberty of access to some Prisoners.

*L. Ch. J. Holt.* Let us have a Note of those Names that you would have come to you, and we will give Directions that shall be proper in it.

*Cl. of Arr.* Sheriff of *Middlesex*, you must take them into your custody till Execution is done.

*Then the Keeper took away the Prisoners, and the Court adjourn'd the Commission of Oyer and Terminer to Hicks's Hall, at Three of the Clock that Afternoon.*

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that no other Person Print, or Print the  
same

J. H. O. T.

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